

NJBPU Main Extension Rules

Proposed Amendments and New Rules

N.J.A.C. 14:3-1, 14:3-6, 14:3-8, 14:3-10, 14:5-4, 14:10, 14:18

BOARD OF PUBLIC UTILITIES	3
Summary	4
SUBCHAPTER 6. RECORDS	5
SUBCHAPTER 8 SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE	6
14:3-8.1 Scope and Applicability	6
14:3-8.2 Definitions	7
14:3-8.3 General requirement to provide extensions	8
14:3-8.4 Requirement to put certain extensions underground	8
14:3-8.5 General provisions regarding costs of extensions	9
14:3-8.6 Costs for extension serving an area not designated for growth	9
14:3-8.7 Cost for extension serving a designated growth area	9
14:3-8.8 Exemptions from cost limits on areas not designated for growth	10
14:3-8.9 Designated growth area suggested formulae – general provisions	10
14:3-8.10 Growth area suggested formula – multi-unit or non-residential development	11
14:3-8.11 Growth area suggested formula – single residential customer	12
SUBCHAPTER 10 TARGETED REVITALIZATION INFRASTRUCTURE PROGRAM (TRIP)	13
14:3-10.1 Purpose and scope; general provisions	13
14:3-10.2 Board approval of a TRIP	14
14:3-10.3 Annual TRIP adjustment petition	14
14:3-10.4 Termination of a TRIP	14
14:3-10.5 Calculating the TRIP charge	15
CHAPTER 5 ELECTRIC SERVICE	15
SUBCHAPTER 4. REGULATION FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS	15
CHAPTER 10. TELEPHONE	15
CHAPTER 18. REGULATIONS OF CABLE TELEVISION	16
SUBCHAPTER 3 CUSTOMER RIGHTS	16
SUBCHAPTER 6. RECORDS	16
SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT	17
Social Impact	17
Economic Impact	18
Federal Standards Statement	19
Jobs Impact	19
Agriculture Industry Impact	19
Regulatory Flexibility Analysis	19
Smart Growth Impact	20
CHAPTER 3 ALL UTILITIES	20
SUBCHAPTER 1. DEFINITIONS	20

Note: This is a courtesy copy of the proposal. The official version will be published in the New Jersey Register on January 20, 2004. Should there be any discrepancies between this courtesy copy and the official version, the official version will govern.

14:3-1.1 Words defined	20
SUBCHAPTER 6 RECORDS	21
14:3-6.2 Plant and operating	21
SUBCHAPTER 8 [SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE] EXTENSIONS TO PROVIDE REGULATED SERVICES	21
[14:3-8.1 General provisions	21
14:3-8.2 Residential land developer; extension other than telephone	22
EXAMPLE	22
14:3-8.3 Individual residential customer; extension other than telephone	23
14:3-8.1 Scope and applicability	24
14:3-8.2 Definitions	25
14:3-8.3 General requirement to provide extensions	27
14:3-8.4 Requirement to put certain extensions underground	27
14:3-8.5 General provisions regarding costs of extensions	29
14:3-8.6 Costs for extension serving an area not designated for growth	29
14:3-8.7 Costs for extension serving a designated growth area	31
14:3-8.8 Exemptions from cost limits on areas not designated for growth	32
14:3-8.9 Designated growth area suggested formulae – general provisions	34
14:3-8.10 Designated growth area suggested formula – multi-unit or non-residential development	36
EXAMPLE A -- Suggested formula applied to a 10 unit residential development	37
14:3-8.11 Designated growth area suggested formula – single residential customer	37
EXAMPLE B – Suggested formula applied to a single residential customer	39
14:3-8.12 Smart growth infrastructure incentive program (SGIIP)	40
14:3-8.13 Enforcement	40
SUBCHAPTER 10 Targeted revitalization infrastructure program (TRIP)	40
14:3-10.1 Purpose and scope, general provisions	40
14:3-10.2 Board approval of a TRIP	41
14:3-10.3 Annual TRIP adjustment petition	44
14:3-10.4 Termination of a TRIP	45
14:3-10.5 Calculating the TRIP charge	46
CHAPTER 5 ELECTRIC SERVICE	47
SUBCHAPTER 4. [REGULATION FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS] EXTENSION OF ELECTRIC SERVICE	47
14:5-4.1 [Applicability] Extensions	47
[14:5-4.3 Rights of way and easements	47
14:5-4.4 Installation of underground distribution system within subdivision	48
14:5-4.5 Connection to supply systems	50
14:5-4.6 Advances by applicant	50
[14:5-4.7 Cooperation by applicant	51
14:5-4.8 Construction	51
14:5-4.9 Street lighting	52
14:5-4.10 Records	52
14:5-4.11 Special conditions or exemptions	52
14:5-4.12 Prior regulations	52
14:5-4.12 Compliance	52

Note: This is a courtesy copy of the proposal. The official version will be published in the New Jersey Register on January 20, 2004. Should there be any discrepancies between this courtesy copy and the official version, the official version will govern.

CHAPTER 10. TELEPHONE	53
SUBCHAPTER 1. SERVICE	53
14:10-1.1 [Service connections] (Reserved)	53
SUBCHAPTER 3. [SUGGESTED FORMULAE FOR] EXTENSION OF TELEPHONE SERVICE	53
14:10-3.1 [General provisions] Extensions	53
14:10-3.2 Construction on public highways	54
14:10-3.3 Construction and attachments on private property	54
14:10-3.4 Guaranty in lieu of deposit	54
SUBCHAPTER 4. (Reserved) [REGULATION FOR RESIDENTIAL TELEPHONE UNDERGROUND EXTENSIONS	55
14:10-4.1 Applicability	55
14:10-4.3 Rights-of-way and easements	55
14:10-4.4 Installation of underground communication system within subdivision	55
14:10-4.6 Advances by applicant	56
14:10-4.8 Construction	56
14:10-4.9 Records	57
14:10-4.11 Prior regulations	57
14:10-4.12 Compliance	57
CHAPTER 18 REGULATIONS OF CABLE TELEVISION	58
SUBCHAPTER 3 CUSTOMER RIGHTS	58
14:18-3.2 Requests for service	58
SUBCHAPTER 6. RECORDS	58
14:18-6.2 Plant and operating records	58
SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT	58
14:18-11.2 Application for municipal consent to operate a cable television system	58

BOARD OF PUBLIC UTILITIES

Proposed Amendments: N.J.A.C. 14:3-1, 14:3-6, 14:3-8, 14:5-4, 14:10, 14:18

Proposed New Rules: N.J.A.C. 14:3-10

Authorized By: Board of Public Utilities, Jeanne M. Fox, President, and Frederick
F. Butler, Carol J. Murphy, Connie O. Hughes and Jack Alter,
Commissioners.

Authority: N.J.S.A. 48:2-13, 48:2-16; N.J.S.A. 48:2-27, 48:2-23; NJSA 48:5A-
36, and 48:5A-10.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

BPU Docket Number: AX03110973

Proposal Number: PRN 2004-

Submit comments by March 17, 2004 to:

New Jersey Board of Public Utilities
Kristi Izzo, Secretary
ATTN: BPU Docket Number: AX03110973
Two Gateway Center
Newark, New Jersey 07102

A public hearing on the proposal will be held at 9:30 a.m. on March 2, 2004 at:

New Jersey Board of Public Utilities
Board Hearing Room
2 Gateway Center, 8th Floor
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Public Utilities (Board) is proposing amendments and new rules to ensure that its programs reflect the smart growth policy goals of the State. The amendments and new rules will govern the responsibility borne by regulated entities for the costs of certain investments in infrastructure, based on whether the development served by the infrastructure is in an area designated for growth under the State Development and Redevelopment Plan (State Plan).

The proposal replaces various existing rules governing extensions of service with one consolidated, comprehensive set of new extension rules that reflect the State's smart growth policies for addressing the problems of sprawl development. The existing extension rules primary focus is on when the regulated entity must provide extensions free of charge to applicants, and when and how it may charge applicants for new extensions. The existing rules make no distinction between extensions serving smart growth development in areas designed for growth under the State Plan, and extensions serving sprawl development. This has resulted in subsidies to development in outlying areas, and has perpetuated barriers to development and redevelopment in areas designated for growth under the State Plan. This new rule proposal is intended to replace this outdated regulatory scheme with one that ensures that the cost of all extensions of infrastructure will reflect State smart growth policy. In addition, the proposal includes an innovative pilot program for encouraging development in certain targeted areas, called the targeted revitalization incentive program (TRIP), set forth at proposed N.J.A.C. 14:3-10.

The proposed amendments apply one set of rules to all entities regulated by the Board, including water, electric, gas, cable television and telecommunications. The

existing separate subchapters on underground extensions of telephone and electric services are deleted and replaced with cross references to the consolidated extension rules. A new subchapter is proposed at N.J.A.C. 14:3-10, which establishes TRIP to encourage infrastructure investment in targeted areas designated for growth.

The proposal also amends N.J.A.C. 14:18, Regulations of Cable Television, to specifically incorporate the proposed smart growth extension rules into any new or renewed municipal consents that authorize cable extensions.

As the Board has provided a 60-day comment period on these proposed amendments, the proposed amendments are exempted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

A section-by-section description of the proposed amendments and new rules follows:

CHAPTER 1. ALL UTILITIES

SUBCHAPTER 1 DEFINITIONS

14:3-1.1 Words defined

The Board proposes to add two definitions to N.J.A.C. 14:3-1.1. They are "regulated entity" and "regulated service", to encompass all entities regulated by the Board. As the utility industry has evolved, the Board's jurisdiction has broadened in some cases to cover entities that are not clearly within the existing definition of "public utility." For example, a cable television operator, historically, has not been defined as a "public utility", but it is under the jurisdiction of the Board, and as such, the Board has the authority to regulate how a cable television operator can expand its service territory. Therefore, these broader terms will provide the Board with flexibility to regulate any entity or service that properly comes under its jurisdiction by law.

SUBCHAPTER 6. RECORDS

14:3-6.2 Plant and operating

Amendments are proposed to N.J.A.C. 14:3-6.2, which requires utilities to keep certain records. Proposed new N.J.A.C. 14:3-6.2(d) would require each regulated entity, as defined in proposed N.J.A.C. 14:3-1.1, to provide a procedure to the Board for how the regulated entity will determine whether an extension will serve designated growth areas. The procedure must be submitted within 180 days after the effective date of the rule.

Proposed new N.J.A.C. 14:3-6.2(e) and (f) would require the regulated entity to keep detailed records of its expenditures on extensions to infrastructure, by Planning Area, and to make the records available to Board staff for inspection upon request. These provisions are necessary to enable the Board to determine compliance with the proposed new provisions governing infrastructure costs.

Proposed new N.J.A.C. 14:3-6.2(g) requires regulated entities to maintain records for each calendar year, regarding the amount of shared trench and the number of subdivisions, lots, structures/buildings, residential and non-residential developments served. This is required under existing N.J.A.C. 14:5-4.10, and 14:10-4.9.

These proposed amendments will allow Board staff to track how and where extensions are made in relation to areas designated for growth under the State Plan, and to determine if infrastructure investments comply with the proposed rules.

SUBCHAPTER 8 SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE

The Board proposes that Subchapter 8, Suggested formulae for extension of utility service, be deleted in its entirety and replaced by proposed new subchapter 8 entitled "Extensions to provide regulated services." Existing subchapter 8 applies provides voluntary suggested formulae which may be used to distribute the cost of a residential overhead extension provided at the request of a land developer or an individual applicant. The Board proposes new subchapter 8 to carry out the Board's mandate under N.J.S.A. 48:2-23 to ensure that safe, adequate and proper utility service is furnished in an environmentally responsible manner. One of the most significant threats to New Jersey's environment is sprawl development, and the existing rules have unfortunately helped perpetuate such development. Therefore, proposed new subchapter 8 is designed to change the regulatory landscape so as to reduce incentives to development in areas not designated for growth under the State Development and Redevelopment Plan, and to encourage development in designated growth areas.

Existing subchapter 8 does not differentiate between designated growth areas and areas not designated for growth, but instead provides suggested formulae based on the type of utility, and the type of applicant. In addition, existing subchapter 8 does not cover underground telephone or electric extensions, or cable television extensions. Proposed new subchapter 8 will provide a consolidated, coherent regulatory scheme applicable to all extensions made by all entities regulated by the Board. The new subchapter 8 will set forth differing cost requirements for where and when a regulated entity may bear the cost of constructing an extension.

14:3-8.1 Scope and Applicability

Proposed new N.J.A.C. 14:3-8.1 provides the scope and applicability of Subchapter 8, which will govern the cost of construction of extensions, whether they are in a designated growth area or an area not designated for growth, and whether they are residential or non-residential.

This proposed section establishes that the subchapter applies to extensions made by all regulated entities, except for electric transmission lines. While the proposed rule covers most transmission systems, it does not cover electric transmission systems. These systems interlace to form a grid which carries electricity in constantly shifting

patterns. Unlike large mains that carry water, gas, or other services, it is impossible to ascertain what customers are ultimately receiving given electricity from a given transmission line. In addition, recent problems with the electricity transmission system require supportive action to ensure reliability of the transmission system.

This proposed section provides that the calculation of costs shall be based on tariffs filed by the regulated entity, but that if the tariff conflicts with the proposed rules, the regulated entity must file a modification to make the tariff consistent with the rules. Finally, the section emphasizes that the subchapter is intended to fulfill the mandate of N.J.S.A. 48:2-23 to assure that safe, adequate and proper utility service be furnished "in a manner that tends to conserve and preserve the quality of the environment and prevent the pollution of the waters, land and air of this State...".

14:3-8.2 Definitions

Proposed new N.J.A.C. 14:3-8.2 sets forth definitions of terms used in this subchapter.

"Applicable tariff" is defined as the current tariff filed by the regulated entity with the Board.

"Area not designated for growth" is any area not designated as a growth area.

"Cost" is defined as the actual expenses incurred in construction of an extension, including labor, materials and overhead.

"Center designation" or "designated center" is a center that has been officially recognized by the State Planning Commission.

"Designated growth area" is defined by reference to planning areas 1 and 2 in accordance with the State Development and Redevelopment Plan, as well as to existing centers and growth areas identified through the Office of State Planning's plan endorsement process.

The terms "distribution," "transmission," and "generation" are defined, because the rule governs distribution facilities and most transmission facilities, but not generation facilities.

A new definition of "electric distribution system" is proposed, to describe the electric systems which provide electricity to load, or customers. An electric distribution system is distinguished from an electric transmission system, which moves electricity from the location of its generation to a distribution system. Consistent with PJM's use of this term, an electric distribution system generally carries less than 69 kilovolts of electricity. While the proposed rule covers most transmission systems, it does not cover electric transmission systems. These systems interlace to form a grid which carries electricity in constantly shifting patterns. Unlike large mains that carry water, gas, or other services, it is impossible to ascertain what customers are ultimately receiving the electricity from a given transmission line. In addition, recent problems with the electricity transmission system require supportive action to ensure reliability of the transmission system.

A new definition of "electric transmission system" is proposed, to describe the systems which move electricity from generation points to distribution systems. Consistent with the use of this term by PJM Interconnection, an electric transmission

system generally carries at least 69 kilovolts of electricity. As discussed above, the rules do not apply to electric transmission systems.

"Extension" is defined in order to delineate clearly the expenditures that are covered by the rules.

A new definition is proposed for "generation" to distinguish the types of plant and facilities that are not included as part of an extension.

A definition is proposed for "Office of State Planning", for use in provisions calling for the Board to consult with this office in making determinations regarding the designation of an area for growth, and regarding consistency with the State Plan and smart growth principles. While the Office of State Planning was established by the State Planning Act, N.J.S.A. 52:18A-196, a recent Department of Community Affairs proposed amendment to N.J.A.C. 5:85, published on September 2, 2003, would change the name to the "Office of Smart Growth." Therefore, the proposed definition provides for any successor agency so that such name changes will not require a change in these proposed rules.

A definition is proposed for "planning area", for use in applying the restrictions on use of a TRIP or SGIIP, and for use in the definition of a designated growth area.

"Plant and/or facilities" is defined because it is used in defining "extension."

A definition of "transmission" is proposed, also for use in applying the definition of "extension".

14:3.8.3 General requirement to provide extensions

Proposed new N.J.A.C. 14:3-8.3 addresses how an applicant for an extension would apply for the extension and sets forth basic requirements for the construction of the extension. The regulated entity is not required to provide the extension, unless all applicable requirements of the subchapter have been met or the Board orders otherwise.

Furthermore, the regulated entity would not be required to provide the extension unless it was legally able to do so, e.g., through easement or right-of-way, for which the applicant would be responsible and would be required to construct and operate the extension in a manner that meets all applicable requirements of this proposed subchapter. This substance of this requirement is taken from existing N.J.A.C. 14:5-4.3 and 14:10-4.3.

14:3-8.4 Requirement to put certain extensions underground

Proposed new N.J.A.C. 14:3-8.4 provides when an extension may be overhead and when it must be placed underground for each regulated entity. This section consolidates all underground extension rules in one place, with the exception of those for cable television. Currently, underground extension rules for electric and telephone service are found at N.J.A.C. 14:5-4, and 14:10-3 and 4, respectively. The proposed new section incorporates those requirements and ensures consistency between regulated entities. Because of the historic differences in the regulatory scheme for cable television operations, the proposal provides that cable television operators must

abide by N.J.A.C. 14:18-2, which dictates when cable television plant must be placed underground.

14:3-8.5 General provisions regarding costs of extensions

This proposed new section prohibits a regulated entity from paying for or contributing to the cost of an extension except in accordance with the subchapter. In any instance, the extension will become the property of the regulated entity regardless of who pays for it. The section also includes provisions found in the existing rules, which require regulated entities and other parties to cooperate fully to facilitate construction at the lowest reasonable cost, and which preclude municipalities from imposing ordinances or other requirements that would conflict with this subchapter.

The proposal requires regulated entities to submit proposed tariffs, which are subject to approval by the Board, which tariffs must be supported by unit costs of construction in a form required by the Board. This is found in existing N.J.A.C. 14:5-4.4(e) and 14:10-4.4(b). The proposed subsection will provide the Board an opportunity to require updates to the tariffs.

14:3-8.6 Costs for extension serving an area not designated for growth

Proposed new 14:3-8.6 addresses extensions that will serve development in an area not designated for growth. The proposed section first delineates the types of development covered, and clarifies that the cost of an extension that serves both a designated growth area and an area not designated for growth may be covered, in proportion to the costs attributable to service to each area. This clarifies that the Board does not propose to forbid a regulated entity from providing extensions to areas not designated for growth but that the Board will not allow the regulated entity to absorb the costs of doing so.

The proposed section offers the option for a regulated entity to phase these limits in by applying the formula found at N.J.A.C. 14:3-8.9, 8.10, and 8.11 to these extensions, with progressively smaller refunds to the applicant, until by January 1, 2007, no regulated entity shall pay or financially contribute to an extension in any area not designated for growth.

It is further proposed that any extension performed in a designated growth area and constructed with financial assistance from the regulated entity may not subsequently be used to provide service to an area not designated for growth, except if the regulated entity can prove a financial hardship or public benefit in accordance with N.J.A.C. 14:3-8.8.

14:3-8.7 Cost for extension serving a designated growth area

This section governs a regulated entity's authority to pay for or contribute financially to an extension in a designated growth area. The proposed section first describes extensions serving a designated growth area, and clarifies that the cost of an extension that serves both a designated growth area and an area not designated for

growth may be covered by this section, in proportion to the costs attributable to service in a designated growth area.

Proposed N.J.A.C. 14:3-8.7 allows a regulated entity to pay for or financially contribute to an extension in a designated growth area. Proposed N.J.A.C. 14:3-8.7 addresses three situations. First, if an extension to serve a designated growth area is reasonable, practicable and other conditions are met, the regulated entity shall bear the entire cost of the extension, in accordance with N.J.S.A. 48:2-27, and case law interpreting this statutory provision. Second, if the extension does not meet these criteria, the regulated entity and the applicant for the extension may reach an agreement regarding cost. Finally, failing such agreement, either party may petition the Board to apply the suggested formula set forth in proposed N.J.A.C. 14:3-8.10 or 8.11. The parties may also apply the formula without Board intervention.

The section would not apply to an extension covered by a TRIP, which would be governed by N.J.A.C. 14:3-10.

14:3-8.8 Exemptions from cost limits on areas not designated for growth

Proposed new N.J.A.C. 14:3-8.8 provides for exemptions from the limits on regulated entity contributions to development serving areas not designated for growth at N.J.A.C. 14:3-8.6. Exemptions are provided for maintenance or repair of existing facilities, for an extension serving certain agricultural buildings, for completion of certain projects already in progress, and for certain extensions for which the regulated entity has entered into an agreement with the Board prior to the effective date of the rules. In addition, exemptions are provided, with prior Board approval, for extensions necessary to provide a significant benefit to the general public, and to avoid extraordinary hardship. Detailed descriptions of the conditions of each exemption are set forth at proposed N.J.A.C. 14:3-8.8(c) through (i).

Only exemptions for projects where significant public good is claimed or where compliance with the rules would cause an extraordinary hardship require prior written approval by the Board. Proposed N.J.A.C. 14:3-8.8 (j) and (k) provide the information that must be submitted by the regulated entity to the Board to obtain a written exemption.

14:3-8.9 Designated growth area suggested formulae – general provisions

Proposed N.J.A.C. 14:3-8.9 sets forth the general requirements for applying the suggested formula, when the formula is applied. The intent of this proposed section is to provide, for regulated entities and applicants that cannot arrive at their own negotiated agreement, a predictable mechanism by which Board staff can intervene on behalf of the applicant and/or the regulated entity. The substance of this section, and those at N.J.A.C. 14:3-8.10 and 8.11, generally comport with the suggested formula set forth in existing N.J.A.C. 14:3-8.3, although the proposal simplifies the formula and applies it more consistently to all regulated entities. There are two versions of the suggested formula – one for an extension to serve a single residential unit, and one for an

extension to serve non-residential or multi-unit residential developments. This section sets forth basic provisions that apply to both of these versions of the suggested formula.

The section first lists the situations in which the suggested formula may be applied, i.e., when the extension falls under the requirements of N.J.A.C. 14:3-8.7(b), and either the party requesting the extension or the regulated entity apply to Board staff for application of the formula. Nothing in this subsection precludes the interested parties from reaching a separate agreement for the extension of service, including through use of the suggested formula, without applying to the Board. The proposed subsection sets forth the basic procedure for applying the suggested formulae. The proposal requires that the regulated entity notify the applicant of actual costs of the extension within certain deadlines, and the applicant provides a deposit based on those costs. The proposal lists basic components included in calculating the costs of an extension for purposes of applying the formulae. The regulated entity then refunds portions of the deposit over time as it derives revenue from the customers served by the extension.

The proposal also provides what costs may be passed through to the applicant such as specialized work not normally needed for provision of service and pole attachment costs when the regulated entity does not own the poles. A regulated entity may not use an extension that it has paid for or financially supported to subsequently provide service to a customer in an area not designated for growth, except pursuant to the exemptions proposed at N.J.A.C. 14:3-8.8.

The proposal provides that any deposit remaining ten years after the first customer receives service shall be retained by the regulated entity. In no event shall the developer or customer be refunded more than the amount deposited.

14:3-8.10 Growth area suggested formula – multi-unit or non-residential development

Proposed N.J.A.C. 14:3-8.10 addresses how Board staff will apply the suggested formula to extensions that will serve a development in a designated growth area, except for those serving only a single residential customer. While the Board encourages applicants and regulated entities to negotiate the cost to be paid by the applicant, the Board recognizes that this is not possible in all cases, so the suggested formula provide a default system for determining distribution of costs. The proposed provisions roughly follow the existing provisions regarding the suggested formula, found in N.J.A.C. 14:3-8.3, but the proposal simplifies the formula and makes it more consistent across different regulated services.

The suggested formula in this section requires an applicant to deposit the entire estimated cost of the extension, which cost shall be provided to the applicant prior to construction of the extension. The proposal provides that each phase of construction for a large multi-phase development shall be treated as a separate development.

The regulated entity shall refund the developer a portion of the deposit as each customer is connected to the extension. The amount of the refund is based on the annual revenue that the regulated entity derives from the customer, multiplied by ten. Under the existing rules, the annual revenue is multiplied only by five, but the proposal doubles that amount in order to encourage developers to build in designated growth

areas. The proposal includes a table at Example A, showing how the formula would be applied to a ten unit residential development.

14:3-8.11 Growth area suggested formula – single residential customer

Proposed N.J.A.C. 14:3-8.11 addresses how Board staff will apply the suggested formula to extensions that will serve only a single residential customer. While the Board encourages applicants and regulated entities to negotiate the cost to be paid by the applicant, the Board recognizes that this is not possible in all cases, so the suggested formula provide a default system for determining distribution of costs. The proposed provisions roughly follow the existing provisions regarding the suggested formula, found in N.J.A.C. 14:3-8.3, but the proposal simplifies the formula and makes it more consistent across different regulated services.

Like the formula set forth at proposed N.J.A.C. 14:3-8.10, the suggested formula in this section requires a deposit from the applicant. However, unlike the deposit for a multi-unit or non-residential extension, the deposit under this section is the cost of the extension, minus the estimated revenue from the extension over a period of ten years. This smaller deposit reflects the different financial condition of a person building a single residential unit, as opposed to a multi-unit development. This section provides for refunds at the same rate as those for a multi-unit or non-residential development, except that the refunds are increased to reflect any additional revenue the regulated entity derives from the extension, such as from new customers who connect to it, or from municipal fees. The proposal includes a table at Example B, showing how the formula would be applied to a single residential customer.

14:3-8.12 Smart growth infrastructure incentive program (SGIIP)

Proposed N.J.A.C. 14:3-8.12 establishes the smart growth infrastructure incentive program (SGIIP). This program allows a regulated entity to apply an expedited return of the deposit required under the suggested formula, in areas targeted for development.

A SGIIP area is any planning area 1 municipality that has obtained initial appropriate approvals from the Office of State Planning or its successor agency. The Department of Community Affairs proposed amendment to N.J.A.C. 5:85, published on September 2, 2003, which outline a procedure called "plan endorsement." Assuming those proposed amendments are adopted, initial plan endorsement would be the appropriate approval from the office of State Planning for a proposed SGIIP area.

In a SGIIP area, the regulated entity may either make a mutual agreement with the applicant for distribution of the costs of an extension, or apply the suggested formula set forth at N.J.A.C. 14:3-8.10 or 8.11. However, if the suggested formula are used under a SGIIP, the regulated entity may refund the applicant's deposit at double the usual rate. The regulated entity may also opt not to charge a developer for infrastructure extensions, or to refund deposit funds received from applicants for infrastructure extensions, relocations or expansions at a rate higher than twice the suggested formula.

In addition, a SGIIP authorizes the regulated entity to include the cost of necessary relocations of infrastructure, and expansions of infrastructure to serve new customers, in the costs covered by the SGIIP. Since relocations and expansions are a

common occurrence in redevelopment of areas designated for growth, this will provide a significant incentive that regulated entities can use to help attract developers to areas targeted for growth.

The intent of this provision is to provide an additional incentive to develop in the areas of the State that have gone through the initial plan endorsement process. The regulated entity would receive the benefit of new customers in areas that would not have been feasible to build in formerly.

14:3-8.13 Enforcement

Proposed N.J.A.C. 14:3-8.13 provides that non-compliance with subchapter 8 shall subject violators to penalties and enforcement actions in accordance with applicable law. The Board will rely on all applicable statutory and regulatory enforcement provisions to ensure compliance with these rules.

SUBCHAPTER 10 TARGETED REVITALIZATION INFRASTRUCTURE PROGRAM (TRIP)

The Board proposes new N.J.A.C. 14:3-10 to eliminate infrastructure barriers to development in targeted areas and to offer incentives for regulated entities to serve such development. Subchapter 10 provides for a Targeted Revitalization Incentive Program (TRIP), under which the Board will authorize infrastructure projects on a pilot basis.

The advantage of TRIP is that infrastructure could be constructed in anticipation of smart growth development, prior to an application for service from a developer. Costs could then be recovered outside the context of a rate case proceeding and much sooner after the expenditure. As a result of this expeditious rate recovery, regulated entities be able to more effectively facilitate the work of State and local planners and to support and promote development and redevelopment in targeted areas.

14:3-10.1 Purpose and scope; general provisions

N.J.A.C. 14:3-10.1 introduces the TRIP, and is proposed to establish a new pilot program intended to remove infrastructure-related barriers to development in specified areas, and contains the general provisions regarding the TRIP. The section sets forth the types of infrastructure that are eligible for coverage under a TRIP. The infrastructure is required to serve only development located in a TRIP area. If the infrastructure was capable of serving additional customers beyond the TRIP area, the regulated entity would only be able to use the TRIP to pay for the portion of infrastructure necessary to serve the TRIP area. Any infrastructure constructed beyond that necessary to serve the TRIP area would be covered by the standard provisions for extensions at N.J.A.C. 14:3-8. All regulated entities except cable television operators are eligible to apply for approval of a TRIP.

It is proposed that the Board will require frequent, detailed reporting of construction and expenditures during all phases of TRIP to insure prudent investment and all petitions to the Board regarding TRIP must be jointly submitted by the regulated

entity and the municipality. This will ensure that only infrastructure that is consistent with local and regional planning is constructed under the TRIP.

14:3-10.2 Board approval of a TRIP

Proposed N.J.A.C. 14:3-10.2 sets forth the TRIP approval process. In order to obtain approval of a TRIP, a regulated entity and a municipality must submit a petition demonstrating that all requirements for a TRIP are met. The proposed section lists the types of infrastructure investments that may be covered by a TRIP, as well as those which may not. Of particular importance is the fact that infrastructure that the regulated entity is already obligated to build or maintain as part of its ongoing obligation to provide safe, adequate and proper service to existing customers is not covered by a TRIP. The TRIP is intended to encourage infrastructure to serve new or expanded development or redevelopment, not merely to maintain or upgrade service to existing customers. The petition for TRIP approval must include a five year utility infrastructure plan of development; information regarding estimated costs for the infrastructure in the work plan; explanation of how the work plan is consistent with the municipal plan and any other information necessary to determine whether the TRIP requirements are met.

The Board's approval of the initial TRIP petition authorizes coverage of the activities set forth in the first year of the work plan. Subsequent years must be approved annually, as required under proposed N.J.A.C. 14:3-10.3. Finally, the section emphasizes the nature of a TRIP as a pilot program, which can be denied by the Board for reasons related to the Board's need for further info, even if a petition meets all other requirements for a TRIP approval.

N.J.A.C. 14:3-10.2(g) provides that, after the Board approves a TRIP, the regulated entity shall begin infrastructure investments without a charge to applicants and without requiring a deposit from applicants, provided that the infrastructure meets the TRIP requirements.

14:3-10.3 Annual TRIP adjustment petition

Proposed N.J.A.C. 14:3-10.3 requires annual TRIP adjustment petitions. This annual review serves to check on construction and charges under the TRIP for each year, and to determine whether the TRIP should be approved for an additional year. The petition includes data on TRIP activities during the previous year, updates of the utility infrastructure plan, a new work plan for the upcoming year, and any necessary adjustment of the TRIP charge to accurately reflect TRIP activities. This annual review allows the Board to determine whether TRIP is being implemented as approved and in compliance with the subchapter, and to make any necessary adjustments.

14:3-10.4 Termination of a TRIP

This proposed section sets forth the triggers for termination of a TRIP charge, and for termination of a TRIP pilot. The TRIP charge ends upon full depreciation of the

infrastructure covered by the TRIP charge or at the conclusion of the next rate case for the regulated entity. The section also includes the conditions under which the Board will cancel its approval of the TRIP. In such a case, the Board will give the regulated entity three months notice of the required termination. In cases where the TRIP is not terminated before its five year term, the TRIP will expire unless the Board has adopted a program to replace it.

14:3-10.5 Calculating the TRIP charge

N.J.A.C. 14:3-10.5 sets forth the method of calculating the TRIP charge. The intent of this section is to set the TRIP charge at a level that will provide the regulated entity with a return on eligible TRIP investments and recovery of depreciation expense on eligible investments. However, it is important that the TRIP charge be carefully limited to ensure that it does not result in undue cost to ratepayers. Therefore, the section includes a cap on the TRIP charge so that it may not result in a charge to residential customers that is greater than one percent of an average bill.

CHAPTER 5 ELECTRIC SERVICE

SUBCHAPTER 4. REGULATION FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS

The Board proposes to delete the text of N.J.A.C. 14:5-4.1 and replace it with a provision cross referencing proposed N.J.A.C. 14:3-8. The remainder of N.J.A.C. 14:5-4 is proposed for deletion. These provisions are very similar, and in some provisions identical, to existing provisions at N.J.A.C. 14:3-8.3, and 14:10-4. A consolidated and simplified version of the substance of the deleted provisions is found at proposed N.J.A.C. 14:3-8.1 through 8.11.

CHAPTER 10. TELEPHONE

The Board proposes to delete the text of N.J.A.C. 14:10-1.1, which addresses service connections, because service connections are included in the proposed definition of "extension" and thus will now be covered under proposed N.J.A.C. 14:3-8.

The Board proposes to delete the text of N.J.A.C. 14:10-3.1 and replace it with a provision cross referencing proposed N.J.A.C. 14:3-8. The remainder of N.J.A.C. 14:10-3, and all of N.J.A.C. 14:10-4, are proposed for deletion. These provisions are very similar, and in some provisions identical, to existing provisions at N.J.A.C. 14:3-8.3, and 14:5-4. A consolidated and simplified version of the substance of the deleted provisions is found at proposed N.J.A.C. 14:3-8.1 through 8.11.

CHAPTER 18. REGULATIONS OF CABLE TELEVISION

SUBCHAPTER 3 CUSTOMER RIGHTS

14:18-3.2 Requests for service

Amendments are proposed to N.J.A.C. 14:18-3.2 to add (g) which mandates how cable television operators must handle extension of service requests. The Board proposes to amend this section to provide that in areas not designated for growth as defined at proposed N.J.A.C. 14:3.8.2, any extension of service performed under a Certificate of Approval or Renewal Certificate of Approval for which an ordinance was issued after the effective date of the amendments proposed herein will be performed in accordance with the provisions of N.J.A.C. 14:3-8 et seq., which in general require that, in non-growth areas, the regulated entity, in this particular example the cable television operator, not absorb any cost for any extension of service. The Board has determined that cable television operators should fall under the Board's smart growth rules proposed herein and therefore has incorporated those rules to apply to cable television operators accordingly. However, recognizing that a cable television operator must within its application (on which the municipality bases its municipal consent) indicate how extension of service shall be performed, the Board believes it is reasonable, at this time, to allow municipalities that have issued or renewed municipal consent prior to the adoption of the new rules and amendments to require cable television operators to abide by the commitments negotiated and incorporated in the municipal consent ordinance.

The Board also proposes to add new N.J.A.C. 14:18-3.2(h) to specify how cable television operators must provide service in designated growth areas as defined at proposed N.J.A.C. 14:3.8.2. In those areas, it is proposed that a cable television operator must provide service to all customers at no cost beyond standard and non-standard installation rates.

SUBCHAPTER 6. RECORDS

14:18-6.2 Plant and operating records

The Board proposes to amend this section, which requires cable television operators to maintain certain information, to require that cable television operators provide the information proposed in N.J.A.C. 14:3-6.2, which in general would require regulated entities to submit to the Board data identifying the boundaries of its service territory and growth areas within its service territory. Guidance will be provided on the Board's website (www.bpu.state.nj.us). Regulated entities would also be responsible for keeping records of advance payments and total expenditures for extensions, which would be available for review by Board staff.

SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT

14:18-11.2 Application for municipal consent to operate a cable television system

The Board proposes to amend this section, which specifies, at a minimum, what a cable television operator must include in its application for municipal consent filed with a municipality. The Board proposes to add a phrase to (a)6i to require a cable television operator to provide a statement that it will abide by the terms of N.J.A.C. 14:3-8 et seq. governing any future extensions of service.

Social Impact

The amendments proposed herein are expected to have a substantial beneficial social impact. Smart Growth is a policy that is aimed at maximizing the use of public resources, including tax dollars, land and natural resources, investments in the built environment, and social and cultural institutions. It is also designed to minimize the negative impact of human development on these public resources. Over the past half-century, development patterns in New Jersey have resulted in a loss of human and financial capital, from urban and existing sub-urban areas, to the rural fringe of new development. This development pattern is commonly referred to as urban sprawl.

The consequences of urban sprawl include:

- ?? Severe traffic congestion caused by poor planning;
- ?? Diminishing housing options as more urban areas and older suburbs become undesirable due to disinvestments and decay;
- ?? Significant environmental impacts such as wildlife habitat fragmentation, vehicle air pollution, water pollution, loss of open space, and increased energy consumption;
- ?? High local and state taxes and cost of public services, due to the infrastructure-intensive nature of urban sprawl;
- ?? Loss and fragmentation of farmland, which threatens the way of life for agricultural communities;
- ?? Segregation and fragmentation of society by race and class as poor and minority communities are left to deal with the aftermath of urban disinvestment;
- ?? A diminution of our public and cultural institutions, which are primarily centered in urban centers that are designed to enable people to gather and interact.

These impacts have been well described in the New Jersey State Planning Act, N.J.S.A. 52:18A-196, which called urban sprawl one of the greatest threats to the future of the State of New Jersey.

The Board, like most government agencies, has unintentionally supported urban sprawl development by compelling utility rate payers to subsidize the cost of providing new infrastructure in all areas of the state; regardless of whether this development had

a positive or negative overall impact on the wellbeing of New Jersey residents and ratepayers.

The solution to urban sprawl is Smart Growth, which is characterized by well-planned, human-friendly, compact development that maximizes existing public investments and minimizes environmental and social impacts.

New Jersey's mechanism for achieving smart growth is the New Jersey State Development and Redevelopment Plan (State Plan). The State Plan was mandated by the State Planning Act and is created through a democratic and open cross-acceptance process that determines how and where public investments should be made to achieve smart growth.

The amendments proposed herein will ensure that only development that is consistent with the State Plan, and hence achieves smart growth, will receive ratepayer subsidies to support the cost of extending public utility infrastructure for new growth. The amendments will also reverse the trend of urban abandonment and disinvestment by incentivizing public utilities and private developers to redevelop targeted areas of the State. In doing so, the amendments will play a significant role in achieving smart growth and ensuring the long term vitality and wellbeing of New Jersey and its residents.

Economic Impact

The proposed amendments and new rules impose new technical, operational and reporting requirements on regulated entities and cable television operators. Thus, it has some additional impact on operating costs, which may be, to the extent permitted under the proposed amendments and new rules, passed on to the customer, through rate adjustments.

There is also a potential for an economic impact on land developers, businesses and individuals in areas that are not designated as growth areas. In these areas, the developer or individual would be required to pay the entire amount of the cost of construction of the necessary utility and infrastructure cost for the development. The Board believes that it is appropriate for those choosing to develop in areas not designated for growth to bear the full cost of infrastructure needed to serve the development.

However, the Board believes that its proposal for Planning Area 1, Planning Area 2 and designated centers will economically benefit land developers as it provides an accelerated rate for return of the deposit for infrastructure in these areas. In addition, in areas not designated for growth, the regulated entity or cable television operator might benefit from the proposed amendments and new rules insofar as they would not be required to absorb any costs for extension into the areas not designated for growth that might not be economical for them but where up until this point, they were required to do so.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt readopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The proposed amendments and new rules are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. In addition, while there are many Federal laws relating to the regulated entities and regulated services affected by the proposed amendments and new rules, none relate to the distribution of infrastructure extension costs between the regulated entity and the applicant for service. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for these proposed amendments and new rules.

Jobs Impact

The Board does not anticipate that the proposed amendments will have an impact on employment, because the amendments do not amend a company's obligation to extend its infrastructure, but rather sets forth how deposits are required for such construction and how those deposits are to be returned. In addition, the anticipated cost to the developer for projects in the areas not designated for growth should not prevent the development from taking place.

Agriculture Industry Impact

The Board believes that the proposed amendments will not have an impact on the agriculture industry.

In addition, the Board has proposed an exemption to N.J.A.C. 14:3-8.6 for certain extensions to serve an agricultural structure or building. This will ensure that the proposed amendments and new rules do not have the unintended consequence of harming the State's agriculture industry.

Regulatory Flexibility Analysis

The proposed new rules and amendments may impose additional recordkeeping, reporting and other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 employees. The proposed amendments and new rules will govern infrastructure extensions, replacements and expansions of all regulated entities in the State. The services supplied by these entities include electricity, water, gas, telecommunications, wastewater disposal and cable television. It is impossible to accurately estimate the exact number of regulated entities affected by the rule proposal, because companies providing such services enter and exit the market freely. However, some basic information is available. There are no small business providing telecommunication services regulated by the Board. There are fewer than ten

small businesses each providing electricity, gas, and wastewater disposal services. Approximately 20 small businesses supply cable television services, and approximately 50 small businesses supply water.

For the small businesses affected by the proposed rules, the proposed amendments and new rules would impose some reporting, recordkeeping and other compliance requirements. These include the collection of information and the filing of reports with the Board. The rules would not, however, require the hiring of consultants or outside assistance, and would not require capital investments.

However, these requirements are necessary to ensure that the regulated entities supply safe, adequate and proper service, within the smart growth policies of the State. The Board has reviewed the rules proposed for readoption with amendments and it is the Board's belief that these rules are necessary to further important State smart growth goals. Therefore, the rules do not provide waivers or special provisions for small businesses.

Smart Growth Impact

The Board anticipates that the proposed new rules and amendments will have a positive impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan (State Plan). The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." The Board has proposed the rules enumerated herein to help achieve the stated goal of fostering development and redevelopment in the areas of the State that have been designated for growth.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

CHAPTER 3 ALL UTILITIES

SUBCHAPTER 1. DEFINITIONS

14:3-1.1 Words defined

The following words and terms, when used in N.J.A.C. 14:3 through 14:10, shall have the following meanings unless the context clearly indicates otherwise:

"Regulated entity" means a person or entity that is subject to regulation by the Board, or that provides a product or service regulated by the Board. This term includes a public utility, as defined herein.

"Regulated service" means a service subject to regulation by the Board.

SUBCHAPTER 6 RECORDS

14:3-6.2 Plant and operating

(a) - (c) (No change.)

(d) Within 180 days after {effective date of these rules}, each regulated entity shall submit to the Board a procedure for the regulated entity to determine, at the time of receipt of an application for service, whether the requested extension will serve development in a designated growth area or an area not designated for growth, as defined at N.J.A.C. 14:3-8.2.

(e) Each regulated entity shall keep detailed records of all deposits, refunds, and expenditures on extensions, as defined at N.J.A.C. 14:3-8.2, with sufficient detail to enable the regulated entity to demonstrate compliance with this chapter to the Board.

(f) The regulated entity shall make the records required under this section available to Board staff for inspection during regular business hours upon request.

(g) Each regulated entity shall maintain, for each calendar year, the following records:

1. The amount of trench which it has shared with other regulated entity lines or cables, including the financial arrangements for joint use of the trench; and
2. The number of subdivisions, the number of lots and the number of buildings or structures, both residential and non-residential, for which service was provided.

SUBCHAPTER 8 [SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE] EXTENSIONS TO PROVIDE REGULATED SERVICES

[14:3-8.1 General provisions

~~(a) These formulae shall not be binding on the parties but are suggested as a guide to customers and utilities. Parties are still free to exercise their rights under N.J.S.A. 48:2-27. When an applicant for an extension is dissatisfied with the utility's proposal may petition the Board for a finding that the extension should be made without charge.~~

~~(b) An extension shall be construed to mean the extension of facilities located on streets, highways, and/or rights-of-way acquired by the utility for common distribution and shall not include the meter or transformer or any part of the house service connections, nor shall the cost of extension as referred to in these rules include the cost of fire hydrants or their branches. The utility may require that the applicant furnish~~

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~~security to insure the use of services which security will be returned upon the commencement of service.~~

~~(c) Extension deposits are not to carry interest; except when the amount of the deposit exceeds the actual cost of the extension, the rate established in N.J.A.C. 14:3-7.5 for customer deposits shall be paid on the excess amount. In the event that the actual cost of the extension is less than the amount deposited, interest shall be computed from the date of deposit, or if more than one deposit payment is made, from the date on which the excess amount is deposited if other than the initial date of deposit.~~

~~14:3-8.2 Residential land developer; extension other than telephone~~

~~(a) Except as otherwise provided, where applications for extensions into newly developed tracts of land are made by individuals, partnerships or corporations interested in the development or sale of land, but not as ultimate residents, the utility may require a deposit from the applicant covering the estimated cost of the extension as defined in N.J.A.C. 14:3-8.1(b), necessary to serve the tract. The estimated cost of the extension shall include the tax consequences incurred by the utility as a result of receiving deposits under the Tax Reform Act of 1986. The deposit shall be subject to adjustment when the actual cost of construction is determined. The actual cost of construction shall be determined and presented to the developer within 30 days after actual costs are known, but not more than 90 days after the date construction is completed.~~

~~(b) Except as otherwise provided, extension deposits are to be returned as provided in (c) below to the depositor when new houses abutting on the extended facilities are completed and the house is occupied by a bona fide owner or responsible tenant who has entered into a contract for use of the utility's service and, in addition, in the case of water main extensions, when the municipality agrees to pay fire protection charges related directly to said extensions.~~

~~(c) Except as otherwise provided, the deposit shall be returned in an amount equal to five times the estimated annual revenue from each such completion and occupancy. The deposit for a water or sewer main extension shall be returned in an amount equal to two and one-half times the estimated annual revenue from each such completion and occupancy and from fire protection charges on said extension.~~

EXAMPLE

Cost of Extension to Utility and Net Deposit	\$1,000.00
—Collected from Land Developer	
Estimated Annual Revenue,	

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First House Completed and Occupied	\$150.00
Factor—2½	
Deposit Returned to Land Developer	\$ 375.00
Deposit Remaining with Utility	\$ 625.00
Estimated Annual Revenue,	
Second House Completed and Occupied	\$150.00
Factor—2½	
Deposit Returned to Land Developer	\$ 375.00
Deposit Remaining with Utility	\$ 625.00
Actual Revenues in a Subsequent Year from	
Above Houses	\$400.00
Estimated Annual Revenue from Above Houses	\$300.00
Excess Annual Revenues	\$100.00
Factor	2½
Deposit Returned to Land Developer	\$ 250.00
Deposit Remaining with Utility	\$ 0]

~~14:3-8.3 Individual residential customer; extension other than telephone~~

~~(a) Where the estimated cost to the utility for an extension to individual permanent residential customers does not exceed five times the estimated annual revenue, the utility shall make the necessary extension upon receiving from the customer an application for service. Such application shall be made by the owner of the property or by a responsible tenant.~~

~~(b) Where the estimated cost of an extension exceeds the amount which the utility must install without cost to the customer, in accordance with (a) above, the excess cost of the extension shall be deposited and remain with the utility without interest until such time as the actual annual revenue from premises abutting upon said extension, as well as from amounts paid by the municipality for fire protection service in the case of a water main extension, exceeds the amount which was used as the basis for the initial deposit computation, or the basis for a previous return, there shall be returned to the depositor an additional amount equal to five times such excess. The deposit shall be subject to adjustment when the actual cost of construction is determined. The actual cost of construction shall be determined and presented to the customer within 30 days after actual costs are known, but not more than 90 days after the date construction is completed. In no event shall more than the deposit be returned nor shall any part of the original deposit remaining after 10 years from the date of the original deposit be returned.~~

EXAMPLE

Cost of Extension to Utility	\$1,000.00
Estimated Annual Revenue	\$100.00
Factor	10
Offset to Deposit	\$500.00

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Actual Annual Revenue	_____	\$150.00
Estimated Annual Revenue used above	_____	\$100.00
Excess Revenue	_____	\$50.00
Factor	_____	10
Deposit Returned to Customer	_____	\$250.00
Deposit Remaining with Utility	_____	\$250.00
Actual Revenue in Subsequent Year	_____	\$200.00
Last Actual Revenue used as a Basis for Deposit Return above	_____	\$150.00
Excess Revenue	_____	\$50.00
Factor	_____	10
Deposit Return to Customer	_____	\$250.00
Deposit Remaining with Utility	_____	\$--0

~~(c) Where the cost to the utility for an extension to individual permanent residential customers exceeds the amount which the utility must install without cost to the customer, in accordance with subsection (a) of this Section, the utility and the customer may agree upon a monthly revenue guarantee not to exceed 1/60 of the total cost of the extension, in lieu of a deposit pursuant to subsection (b) of this Section.]~~

14:3-8.1 Scope and applicability

(a) This subchapter governs the construction of extensions, as defined at N.J.A.C. 14:3-8.2. This subchapter includes provisions regarding whether an extension shall be placed overhead or underground, and the extent to which a regulated entity may pay for or financially contribute to the costs of an extension. How much a regulated entity is authorized to pay for or financially contribute to an extension varies based on whether the customers that the extension will serve are located in an area not designated for growth, a designated growth area, a smart growth infrastructure incentive program (SGIIP) area, or a targeted revitalization incentive program (TRIP) area, as described at N.J.A.C. 14:3-8.12 and N.J.A.C. 14:3-10, respectively.

(b) This subchapter applies to extensions made by all regulated entities, as defined at N.J.A.C. 14:3-8.2, except that:

1. The subchapter applies to cable television companies only as provided at N.J.A.C. 14:18-3.2; and
2. The subchapter does not apply to a portion of an extension that is an electric transmission system.

(c) This subchapter applies to construction of extensions to provide service to all customers, whether residential or non-residential.

(d) This subchapter does not provide for a calculation of the dollar amount that a regulated entity may charge for construction of an extension. This amount is determined based on tariffs submitted to the Board by each regulated entity and approved by the Board.

(e) If a regulated entity's tariff conflicts with this subchapter, the regulated entity shall submit to the Board a modified tariff that complies with this subchapter within 30 days after {effective date of the rule}. The modified tariff shall also be consistent with principles of smart growth. For example, the modified tariff shall not provide that a larger deposit is required from an applicant requesting service to a designated growth area, or that the deposit shall be returned over a longer period of time. If the regulated entity's existing tariff would have the regulated entity collect a smaller deposit, or refund deposits faster, than this subchapter would require, no modification is necessary under this subsection.

(f) This subchapter is intended to fulfill the mandate at N.J.S.A. 48:2-23 that regulated entity service be safe, adequate and proper, and furnished in a manner that tends to conserve and preserve the quality of the environment. One way in which this subchapter fulfills that mandate is through cost provisions that remove incentives for regulated entities to invest in infrastructure in areas that are not designated for growth.

14:3-8.2 Definitions

In addition to the definitions at N.J.A.C. 14:3-1.1, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Applicable tariff" means the tariff, filed with and approved by the Board, that covers the geographic area in which a particular development or extension is located.

"Area not designated for growth" means an area that is not a designated growth area as defined herein.

"Cost" means, with respect to the cost of construction of an extension, actual expenses incurred for materials and labor employed in the design, purchase, construction, and/or installation of the extension, including overhead directly attributable to the work, as well as overrides or loading factors such as those for back-up personnel for mapping, records, clerical, supervision or general office functions.

"Center designation" or "designated center" means a center that has been officially recognized as such by the State Planning Commission in accordance with their rules at N.J.A.C. 5:85. The State Planning Commission may designate a center through the cross-acceptance process or as part of the plan endorsement process.

"Designated growth area" means an area depicted on the New Jersey State Planning Commission State Plan Policy Map as:

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1. Planning Area 1 (PA-1);
2. Planning Area 2 (PA-2);
3. A designated center; or
4. An area identified for growth as a result of a final petition for either initial or advanced plan endorsement that has been approved by the State Planning Commission pursuant to N.J.A.C. 5:85-7.

"Distribution" means the movement or transmission of a substance, signal or form of energy to customers, from the generation point of the substance, signal or form of energy, or from transmission plant and/or facilities.

"Electric distribution system" means that portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises. An electric distribution system generally carries less than 69 kilovolts of electricity.

"Electric transmission system" means that portion of an electric system which carries electricity from its point of generation to the electric distribution system. An electric transmission system generally carries 69 or more kilovolts of electricity

"Extension" means the construction or installation of plant and/or facilities by a regulated entity to convey a regulated service from existing plant and/or facilities to one or more new customers, and also means the plant and/or facilities themselves. This term includes all plant and/or facilities for transmission and/or distribution, whether located on a public street or right of way, or on private property, including the wire, cable, pipe, conduit or other means of conveying a regulated service from existing plant and/or facilities to each unit or structure to be served.

"Generation" means the manufacture, production, extraction or creation of a substance (such as water or petroleum products), a form of energy (such as electricity), or a signal (such as a telecommunications or cable television signal).

"Office of State Planning" means the entity created by N.J.S.A. 52:18A-201, and its successor entities.

"Planning Area" has the meaning assigned to the term in the rules of the Department of Community Affairs at N.J.A.C. 5:85-1.4. As of {effective date of this rule}, this term is defined in those rules to mean an area of greater than one square mile that shares a common set of conditions, such as population density, infrastructure systems, level of development, or environmental sensitivity. The State Development and Redevelopment Plan sets forth Policy Objectives that guide growth in the context of those conditions. Planning areas are intended to guide the application of the Plan's Statewide Policies, as well as guiding local planning and decision on the location and scale of development within the Planning Area.

"Plant and/or facilities" means any machinery, apparatus, or equipment, including but not limited to mains, pipes, aqueducts, canals, wires, cables, fibers, substations, generators, engines, transformers, burners, pumps, and switches, used for generation, transmission, or distribution of water, energy, telecommunications, cable television or other service that a regulated entity provides. This term does not include equipment used solely for administrative purposes, such as office equipment used for administering a billing system.

"Transmission" means the movement, transfer or transmission of a substance, signal, or form of energy from its generation point, either to distribution plant and/or facilities, or to end users.

14:3-8.3 General requirement to provide extensions

(a) To obtain regulated services to serve new development or new customers, a person shall apply to the appropriate regulated entity, as defined at N.J.A.C. 14:3-1. for construction of an extension, as defined at N.J.A.C. 14:3-8.2.

(b) If an applicant for an extension has met all applicable requirements in this chapter, a regulated entity shall install the requested extension in accordance with this subchapter. No regulated entity is required to construct an extension or to furnish service to any customer unless all applicable requirements of this subchapter have been met, unless ordered to do so by the Board.

(c) A regulated entity is not required to construct, own, operate or maintain an extension on any property unless the regulated entity is legally authorized to do so, for example through an easement or right of way. The applicant shall ensure that the regulated entity is provided with such legal authority, at no cost to the regulated entity and with no requirement for condemnation of the property.

(d) In constructing and operating an extension, a regulated entity shall use equipment and practices that meet all applicable requirements in this chapter, and which are consistent with industry standards. An applicant may request equipment or service which exceeds these standards. If the regulated entity provides this equipment or service, the regulated entity may charge the applicant for the full cost of the excess facilities requested, in accordance with this subchapter.

14:3-8.4 Requirement to put certain extensions underground

(a) This section governs whether an extension, as defined at N.J.A.C. 14:3-8.2, shall be made underground or overhead.

(b) An extension for water or gas service shall be underground in all cases. An extension of cable television service shall be made in accordance with N.J.A.C. 14:18-2.1 et seq.

(c) An extension of electric or telephone service shall be made underground if the extension meets any of the following criteria:

1. The extension will serve three or more building lots that do not have service as of {effective date of this rule};
2. The extension will be placed along streets that were constructed after {effective date of this rule}, or along streets constructed prior to that date which are not already served by overhead facilities;
3. The extension will provide service to one or more residential structures for which a certificate of occupancy is issued by the local authorities after {effective date of these rules}; or
4. The extension is of high-capacity main line electric distribution facilities with a capacity of 4 megavolt amps (MVA) or more.

(d) An extension of telephone or electric service that is not subject to (c) above may be made overhead.

(e) If a building that would require underground service under (c) above is located on a lot that abuts an existing street on which overhead facilities are already installed, the building may be served overhead, at the discretion of the regulated entity.

(f) Underground service shall be reasonably equivalent to comparable overhead service, and shall ensure that the customer will receive safe, adequate and proper service with a minimum increase in the difference in cost between overhead and underground service. If a customer desires underground service where it is not required under (c) above, the regulated entity shall provide underground service, but the customer shall be responsible for the difference in cost between installing overhead service and installing underground service.

(g) When an extension is installed underground, certain components may be installed above ground if necessary for safety or to provide reasonable access for maintenance. Examples are interconnecting points and pedestals, and electric transformers.

(h) If unusual circumstances would unreasonably delay a regulated entity's ability to provide underground service, temporary facilities may be installed in whatever manner is most practical under the circumstances. However, the regulated entity shall replace such temporary facilities as soon as practical with permanent underground service in accordance with this subchapter. A regulated entity may request from the Board an adjustment of the charges in the applicable tariff in order to cover any excess cost due to temporary installation.

(i) All street lighting in a development with underground electric service shall also be served underground.

(j) When the requirement that an extension be located underground will result in hardship, inequity, or will be discriminatory to other affected parties, the regulated entity or applicant may request from Board staff a special exemption, or approval of special

conditions. Board staff may require, as a condition of such a request, that the requesting party deposit in an escrow account an amount up to the estimated difference in cost between underground and overhead service.

(k) Where affected regulated entities determine that it is practical, electric cables, communication cables, and cable television cables shall be installed in the same trench, if this can be done consistent with all applicable codes and regulations, and in particular those pertaining to safety.

(l) Where a trench is to be used for more than one regulated service, a regulated entity is not required to begin work on the underground system until the applicant has made arrangements with all affected regulated entities to coordinate the installation of all services in the trench.

14:3-8.5 General provisions regarding costs of extensions

(a) A regulated entity shall not pay for or financially contribute to the cost of an extension, as defined at N.J.A.C. 14:3-8.2, except in accordance with this subchapter or N.J.A.C. 14:3-10.

(b) An extension shall become the property of the regulated entity upon its completion. If an extension is paid for by an applicant in accordance with this chapter, a regulated entity shall include the extension in its contribution in aid of construction (CIAC) accounts, for accounting purposes only. The regulated entity shall record such a contribution in a manner consistent with the Uniform System of Accounts. Amounts that a regulated entity receives in accordance with this subchapter and which are not refunded to an applicant shall be credited to the appropriate plant account or accounts.

(c) Regulated entities, customers, applicants, developers, builders, municipal bodies and other persons shall cooperate fully in order to facilitate construction of an extension at the lowest reasonable cost consistent with system reliability and safety. This includes sharing trenches where practicable, and coordinating scheduling and other aspects of construction to minimize delays and to avoid difficult conditions such as frozen or unstable soils. A municipality shall not impose an ordinance or other requirement that conflicts with this subchapter, or which would prevent or interfere with another person's compliance with this subchapter.

(d) Each regulated entity shall submit for Board approval a proposed tariff containing charges for services, including installation of underground service. These proposed tariffs shall be supported by unit costs of construction in the form required for approval by the Board. The regulated entity shall periodically update tariffs as requested by the Board.

14:3-8.6 Costs for extension serving an area not designated for growth

(a) This section governs an extension that will serve development in an area not designated for growth, as defined at N.J.A.C. 14:3-8.2. The section phases out a

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regulated entity's authority to pay for such an extension. During the three year phasing out period, a regulated entity may choose not to contribute to such an extension, or may choose to contribute only in accordance with the adjusted formula set forth at (c) or (d) below, as applicable. After the phasing out period, the regulated entity is prohibited from paying for or contributing financially to an extension subject to this section.

(b) If an extension meets any of the criteria at 1 through 4 below, a regulated entity shall not pay for or financially support the extension, except in accordance with (c) or (d) below, or in accordance with an exemption under N.J.A.C. 14:3-8.8:

1. The extension is constructed entirely within an area not designated for growth;
2. The extension is designed, constructed and/or used to provide service to customers located in an area not designated for growth;
3. The extension has a capacity beyond that needed to serve a designated growth area, except that in such a case a regulated entity may pay for the portion of the extension that is necessary to serve a designated growth area. For example, a regulated entity may construct an extension in a designated growth area, which will serve the designated growth area, but which has additional capacity intended to serve a nearby area not designated for growth. In such a case, the regulated entity may pay for or financially contribute to the extension up to the amount that would be necessary to serve the designated growth area, but shall not pay for or financially contribute to the portion of the extension that is not necessary to serve the designated growth area; or
4. Any extension that is not described at N.J.A.C. 14:3-8.7(b).

(c) Beginning {effective date of rule}, if a regulated entity chooses to contribute to an extension described at (b) above, the regulated entity shall apply the suggested formula at N.J.A.C. 14:3-8.10 or 8.11, except that each refund to the applicant shall be calculated by multiplying annual revenue from each customer by the following, rather than by ten:

1. For extensions of water service, by 1.5; and
2. For extensions of all other regulated services, by 3.

(d) Beginning January 1, 2006, if a regulated entity chooses to contribute to an extension described at (b) above, the regulated entity shall apply the suggested formula at N.J.A.C. 14:3-8.10 or 8.11, except that each refund to the applicant shall be calculated by multiplying annual revenue from each customer by the following, rather than by ten:

1. For extensions of water service, by .75; and
2. For extensions of all other regulated services, by 1.5.

(e) After January 1, 2007, a regulated entity shall not pay for or financially support an extension described at (b) above in any way, and in addition the Board shall not consider the cost of the extension when determining the regulated entity's rates under N.J.S.A. 48:2-21.

(f) This subchapter does not prohibit a regulated entity from constructing an extension or performing related services in exchange for compensation. A regulated entity may contract with an applicant for service to design, purchase, construct or maintain an extension on behalf of the applicant. However, the regulated entity shall be paid in full in advance for the full cost of the extension.

(g) If an extension to serve development in a designated growth area is constructed with financial assistance from a regulated entity in accordance with N.J.A.C. 14:3-8.4 or 8.5, the regulated entity shall not subsequently use that extension to provide service to customers in an area not designated for growth, except pursuant to (h) below. For example, if a regulated entity pays to construct a service line that passes through an area not designated for growth in order to serve customers in a designated growth area, the regulated entity shall not subsequently allow customers in the area not designated for growth to connect to that line.

(h) If a regulated entity has paid for or financially supported an extension to serve customers in a growth area and wishes to later use the extension to serve customers in an area not designated for growth, the regulated entity may petition the Board for an exemption to (e) above based on extraordinary hardship or public benefit in accordance with N.J.A.C. 14:3-8.8.

14:3-8.7 Costs for extension serving a designated growth area

(a) This section governs the regulated entity's authority to pay for or contribute financially to an extension that will serve development in a designated growth area, as described at (b) below. However, if an extension is part of a project that the Board has approved for inclusion in a Targeted Revitalization Incentive Program (TRIP) under N.J.A.C. 14:3-10, the cost of the extension shall not be governed by this section but shall be governed by N.J.A.C. 14:3-10, as applicable. The cost of an extension that will serve development in an area not designated for growth is governed by N.J.A.C. 14:3-8.6.

(b) If an extension subject to this section meets either of the criteria at 1 or 2 below, a regulated entity shall pay for or financially contribute to the extension in accordance with this subchapter:

1. The extension is constructed entirely within a designated growth area and has a service capacity no greater than is needed to serve the designated growth area;
2. Regardless of its location, the extension is designed, constructed and used solely to provide service to customers located in a designated growth area, and:
 - i. Has a service capacity no greater than is needed to serve the designated growth area; or
 - ii. Has a service capacity capable of serving both a designated growth area and an area not designated for growth. In such a case the regulated entity shall pay only for the portion of the extension that is necessary for and will be used to serve a designated growth area. For example, a regulated entity may construct an extension in a designated growth area, which will serve the designated growth area, but which has additional capacity intended to serve a

nearby area not designated for growth. In such a case, the regulated entity may pay for or financially contribute to the extension up to the amount that would be necessary to serve the designated growth area, but shall not pay for or financially contribute to the portion of the extension that is not necessary to serve the designated growth area.

(c) The cost of an extension described at (b) above shall be distributed between the regulated entity and the applicant as follows:

1. If the extension, or a portion thereof, is reasonable, practicable, will generate sufficient revenue, and the regulated entity is in a financial condition which reasonably warrants the expenditure, the regulated entity shall provide the extension or portion thereof at no cost to the applicant, although a deposit may be required under (d) below. Any remaining portion of the extension shall be governed by 2 below; and
2. If the extension, or a portion thereof, does not meet the criteria at 1 above, the regulated entity may contribute financially to the extension or portion. The amount of the regulated entity's financial contribution to such an extension shall be determined by mutual agreement between the regulated entity and the applicant. If a regulated entity and an applicant cannot agree upon a financial arrangement regarding the cost of an extension, either party may petition the Board to apply the suggested formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

(d) For an extension covered by (c)1 above, a regulated entity may require a deposit from an applicant in any case where the regulated entity is not expected to receive a substantial portion of the revenue from the extension within the first five years after the extension is constructed. The deposit shall be refunded to the applicant in accordance with the suggested formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

(e) A regulated entity shall charge customers in a designated growth area only for costs related to the portion of the extension that is necessary for and will be used to serve the designated growth area.

(f) If a regulated entity has paid for or financially supported an extension to serve customers in a designated growth area in accordance with this subchapter, the regulated entity shall not subsequently use that extension to provide service to customers in an area not designated for growth, except pursuant to an exemption based on extraordinary hardship or public benefit, issued by the Board in accordance with N.J.A.C. 14:3-8.8. For example, if a regulated entity pays to construct a service line that passes through an area not designated for growth in order to serve customers in a designated growth area, the regulated entity shall not subsequently allow customers in the area not designated for growth to connect to that line.

14:3-8.8 Exemptions from cost limits on areas not designated for growth

(a) The following shall be exempt from the requirements for costs of extensions to serve development in an area not designated for growth at N.J.A.C. 14:3-8.6 for the following:

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1. Maintenance or repair of existing plant and/or facilities, as described in (c) below;
2. An extension serving certain agricultural buildings, as described in (d) below;
3. A prior agreement or Board order requiring a regulated entity to provide certain extensions without charge, as described at (e) below;
4. A project already in progress as of {date of proposal}, as described in (g) below;
5. A project that will provide a significant public good, as described in (h) below; and
6. A project for which compliance would cause extraordinary hardship, as described in (i) below.

(b) An exemption described at (a)1 through 4 above shall not require prior written approval from the Board. An exemption described at (a)5 or 6 above shall require prior written approval from Board staff.

(c) Maintenance or repair of existing plant and/or facilities that would otherwise be subject to N.J.A.C. 14:3-8.6 shall be exempt from N.J.A.C. 14:3-8.6, provided that:

1. The maintenance or repair is necessary to keep existing plant and/or facilities in working order; and
2. The maintenance or repair will neither enable the regulated entity to increase the number of customers it serves in an area not designated for growth, nor will it expand or increase the regulated entity's ability to provide service to existing customers in an area not designated for growth, except to the extent that maintenance or repair performed to the industry standard results in an increase in capacity of infrastructure.

(d) An extension with the sole purpose of serving an agricultural building or structure whose sole use is the production, storage, packing or processing of agricultural or horticultural products, provided that a majority of these products were produced on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3, shall be exempt from the limits at N.J.A.C. 14:3-8.6.

(e) If a regulated entity has entered into a prior written agreement with the Board that requires the regulated entity to provide certain extensions without charge, or has been ordered by the Board to provide certain extensions without charge, those extensions shall be exempt from the limits at N.J.A.C. 14:3-8.6. For an agreement or Board order to qualify for this exemption, the agreement shall have been executed prior to {effective date of this rule}.

(f) If the Board has, prior to {effective date of rule}, executed a binding agreement providing for a regulated entity to contribute financially to an extension, the regulated entity may contribute financially to the extension, to the extent required for compliance with the prior agreement. A Board approval of a municipal consent ordinance approving cable television service is an example of such a prior agreement. However, this exemption does not cover a telecommunications infrastructure upgrade project serving areas not designated for growth under the Plan of Alternative Regulation, approved by Board Order issued under Docket No. TO92030358.

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(g) An extension for which construction has begun prior to {date of adoption of this rule}, or for which the regulated entity has committed in writing, prior to {date of adoption of this rule}, to pay for or financially support, shall be exempt.

(h) To obtain an exemption based on a significant public good, a person shall demonstrate to the Board that all of the following criteria are met:

1. The project or activity served by the extension would provide a significant benefit to the public or to the environment;
2. That the project described in 1 above is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth. In making this determination, the Board will consult with the Office of State Planning and other State agencies; and
3. There is no practicable alternative means of providing the benefit while still complying with this subchapter.

(i) To obtain an exemption based on extraordinary hardship, a person shall demonstrate to the Board that all of the following criteria are met:

1. Compliance with this subchapter would cause an extraordinary hardship;
2. The extraordinary hardship results from unique circumstances that do not apply to or affect other projects in the region;
3. The unique circumstances arise from the project itself and not from the personal situation of the regulated entity or its customers; and
4. Neither the extraordinary hardship nor the unique circumstances are the result of any action or inaction by the regulated entity, its shareholders, or its customers.

(j) The cost of an extension that is exempt under this section shall be distributed as follows:

1. If an extension is eligible for an exemption based on a prior agreement or Board order under (e) above, the regulated entity shall pay for or financially contribute to the extension only to the extent required by the prior agreement or Board order;
2. If an extension is eligible for an exemption based on a project in progress under (f) above, the regulated entity shall pay for or financially contribute to the extension only to the extent that it previously committed to do so in a written agreement; and
3. For any exemption not covered at 1 or 2 above, the regulated entity shall pay for or financially contribute to an extension in accordance with the requirements at N.J.A.C. 14:3-8.7 governing extensions in a designated growth area.

14:3-8.9 Designated growth area suggested formulae – general provisions

(a) Board staff will apply the suggested formula in this section only if all of the following criteria are met:

1. The extension will serve development that meets the requirements at N.J.A.C. 14:3-8.7(b);
2. The extension is not included in a Board-approved TRIP program; and
3. Either the regulated entity or the applicant for service submits a request to Board

staff to apply the suggested formula, based on the parties' inability to reach agreement upon the amount of the regulated entity's financial contribution to the extension.

(b) If a regulated entity or applicant requests application of the suggested formula to an extension to serve any type of development other than a single residential customer, Board staff shall apply the formula at N.J.A.C. 14:3-8.10. If a regulated entity or applicant requests that Board staff apply the suggested formula to an extension to serve only a single residential customer, Board staff shall apply the formula in N.J.A.C. 14:3-8.11.

(c) For both types of formulae (single residential customer and other), the applicant shall provide the regulated entity with a deposit. The amount of the deposit shall be determined according to the provisions for multi-unit developments at N.J.A.C. 14:3-8.10 or for single residential customers at N.J.A.C. 14:3-8.11, as applicable. The regulated entity shall then construct the extension, and shall refund the deposit according to the formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

(d) For purposes of determining the amount of the deposit and applying the suggested formula, the following shall apply:

1. The regulated entity shall estimate the cost of the extension in accordance with the applicable tariff, and shall include the tax consequences incurred by the regulated entity under the Tax Reform Act of 1986 as a result of receiving the deposit;
2. The cost of an extension of water service shall not include the cost of fire hydrants or their branches;
3. The regulated entity shall assume that the electric service connection to each building will be at the nearest corner of the building to the point at which the service enters the property;
4. If an applicant requests service that costs more than that which is standard, or if an extension presents an unusual situation in which providing standard service is substantially more expensive than usual, the regulated entity may charge the applicant or the customer for the extra expense. For example, for an underground extension, pavement cutting and restoration, rock removal, blasting, or unusual or difficult digging conditions requiring equipment and methods not generally used may be charged to the applicant. In such a case, the regulated entity shall charge the applicant the actual low bid cost for the extra work required, and the regulated entity shall offer the applicant the option to perform the work or hire a contractor to do so. However, the regulated entity need not offer the applicant this option if the regulated entity has a prior contract, approved by the Board, providing for a contractor to perform the work; and
5. If the extension requires a regulated entity to pay an attachment charge for the use of utility poles located on private property and not owned by the regulated entity, the regulated entity may include the cost of the attachment charge when calculating the cost of the extension.

(e) The regulated entity shall notify the applicant of the actual cost of the extension within 30 days after the actual costs are known, and no more than 90 days after construction is completed. As construction proceeds, the amount of the deposit shall be adjusted as needed to reflect the actual cost. If the amount of the deposit exceeds actual costs at the completion of construction, the regulated entity shall return any excess. If the deposit is less than actual costs, the applicant shall provide the necessary additional funds to the regulated entity.

(f) Any amount not refunded within ten years after the first customer begins receiving services shall remain with the regulated entity. In no event shall a regulated entity refund more than the total deposit amount to the applicant.

14:3-8.10 Designated growth area suggested formula – multi-unit or non-residential development

(a) This section governs how Board staff will apply the suggested formula to the cost of extensions described at N.J.A.C. 14:3-8.7(b), except an extension for a single residential customer, which is covered under N.J.A.C. 14:3-8.11, an extension covered by a SGIIP under N.J.A.C. 14:3-8.12, or an extension included in a Board-approved TRIP under N.J.A.C. 14:3-10.

(b) The deposit required for an extension subject to this section shall be the cost of the extension required to serve the development. Prior to construction of the extension, the regulated entity shall notify the applicant of its estimated cost to construct an extension to serve the development for which service is requested.

(c) For purposes of calculating the amount of the deposit, the development for which service is requested shall be determined by reference to the subdivision map approved by the applicable local authorities. If a development is to be approved and constructed in phases, each phase of the development shall be treated as a separate development for purposes of this subchapter.

(d) As each customer begins receiving services, the regulated entity shall refund a portion of the deposit to the applicant. For each customer, this initial refund shall be the estimated annual revenue that will result from the customer, multiplied by ten.

(e) One year after each customer begins receiving services, and annually thereafter, the regulated entity shall refund an additional amount to the applicant for that customer. The annual refund shall be that customer's actual revenue for the previous year, multiplied by ten. If the actual revenue for the first year was less than the estimated revenue (upon which the deposit amount was based), the regulated entity shall not provide a refund. For any subsequent year, if the revenue for the year is less than the revenue for the previous year, the regulated entity shall not provide a refund.

(f) See example A below for an illustration of the use of the suggested formula for a multi-unit development.

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EXAMPLE A -- Suggested formula applied to a 10 unit residential development

<u>When?</u>	<u>Action</u>	<u>Amount</u>
<u>Before construction</u>	<u>Applicant provides deposit.</u>	<u>\$15,000.00</u>
<u>First customer comes online</u>	<u>Regulated entity gives first refund to applicant, calculated by multiplying estimated annual revenue from first customer (\$430) by 10.</u>	<u>\$4,300.00</u>
<u>After first refund</u>	<u>Amount of deposit remaining with regulated entity.</u>	<u>\$10,700.00</u>
<u>Second customer comes online</u>	<u>Regulated entity gives second refund to applicant, calculated by multiplying estimated annual revenue from second customer (\$500) by 10.</u>	<u>\$5,000.00</u>
<u>After second refund</u>	<u>Amount of deposit remaining with regulated entity.</u>	<u>\$5,700.00</u>
<u>Third customer comes online</u>	<u>Regulated entity gives third refund to applicant, calculated by multiplying estimated annual revenue from third customer (\$400) by 10.</u>	<u>\$4,000.00</u>
<u>After third refund</u>	<u>Amount of deposit remaining with regulated entity.</u>	<u>\$1,700.00</u>
<u>Fourth customer comes online</u>	<u>Refund from fourth customer, calculated by multiplying estimated annual revenue from fourth customer (\$350) by 10, exceeds remaining deposit. Regulated entity gives remainder of deposit to applicant. Transaction is complete.</u>	<u>\$1,700.00</u>

14:3-8.11 Designated growth area suggested formula – single residential customer

(a) This section addresses how Board staff will apply the suggested formula to the costs of an extension that meets the following criteria:

1. The extension will serve only a single residential customer;
2. The extension meets the criteria for serving a designated growth area at N.J.A.C. 14:3-8.7; and
3. The extension is not covered by a TRIP under N.J.A.C. 14:3-10.

(b) To determine the deposit required for an extension to serve a single residential customer subject to this section, the regulated entity shall:

1. Estimate the actual cost of the extension required to bring service to the customer from the nearest existing infrastructure;

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2. Estimate the annual revenue that will be derived from the customer, and multiply it by ten, to obtain estimated revenue over a ten year period;
3. Subtract the estimated ten year revenue determined under 2 above from the estimated cost of the extension determined under 1 above. This is the amount of the deposit.

(c) One year after the customer begins receiving service, the regulated entity shall calculate the actual revenue derived from the customer's first year of service. If the actual year one revenue is less than the estimated annual revenue that was used in (b)2 above to determine the deposit, the regulated entity is not required to provide a refund. If the actual year one revenue exceeds the estimated annual revenue, the regulated entity shall provide a refund to the applicant. The amount of the refund shall be the difference between the estimated and annual year one revenues, multiplied by ten.

(d) Two years after the customer begins receiving service, the regulated entity shall calculate the actual revenue derived from the customer's second year of service. If the actual year two revenue is less than the actual year one revenue, the regulated entity is not required to provide a refund. If the actual year two revenue exceeds the actual year one revenue, the regulated entity shall provide a refund to the applicant. The amount of the refund shall be the difference between the actual year one revenue and the actual year two revenue, multiplied by ten.

(e) The process in (d) above shall be repeated annually until the earlier of the following:
1. The regulated entity has refunded the entire deposit to the applicant; or
2. Ten years have passed since the customer began receiving service.

(f) Any portion of a deposit that the regulated entity has not refunded to the applicant within ten years after the date upon which the regulated entity is first ready to render service from the extension shall be retained by the regulated entity.

(g) If, during the ten year period after a single residential customer begins receiving service, additional customers connect to the extension, the regulated entity shall increase the initial customer's annual refund to reflect the additional revenue. In such a case, the regulated entity shall add to the initial customer's refund an amount ten times the actual revenue derived from the additional customers for that year. This additional revenue shall include the following:

1. For a water main extension, amounts paid by a municipality for fire protection during the year; and
2. For a telecommunications extension, amounts earned or saved during the year through use of the extension to carry the regulated entity's toll circuits.

(h) See Example B below for an illustration of the use of the suggested formula for a single residential customer:

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EXAMPLE B – Suggested formula applied to a single residential customer

<u>When?</u>	<u>Action</u>	<u>Amount</u>
<u>Before construction</u>	<u>Applicant gives deposit, determined as follows, to regulated entity:</u> <ol style="list-style-type: none"> <u>1. Estimate total cost of extension (\$7,500);</u> <u>2. Estimate annual revenue (\$500);</u> <u>3. Multiply annual revenue by ten (\$5,000); and</u> <u>4. Subtract item 3 from item 1 to determine deposit.</u> 	<u>\$2,500.00</u>
<u>One year after customer comes on line</u>	<u>If actual first year revenue is less than estimated annual revenue (\$500), no refund.</u> <u>If actual first year revenue (\$525) is more than estimated annual revenue (\$500), regulated entity gives first refund to applicant. Refund is determined as follows:</u> <ol style="list-style-type: none"> <u>1. Subtract estimated annual revenue (\$500) from actual first year revenue (\$525); and</u> <u>2. Multiply item 1 (\$25) by 10 (\$250).</u> 	<u>\$250.00</u>
<u>Amount of deposit remaining with regulated entity after first refund</u>		<u>\$2,250.00</u>
<u>Two years after customer comes online</u>	<u>If actual second year revenue is less than actual first year revenue (\$525), no refund.</u> <u>If actual second year revenue (\$575) is more than actual first year revenue (\$525), regulated entity gives second refund to applicant. Refund is determined as follows:</u> <ol style="list-style-type: none"> <u>1. Subtract actual first year revenue (\$525) from actual second year revenue (\$575); and</u> <u>2. Multiply item 1 (\$50) by 10 (\$500).</u> 	<u>\$500.00</u>
<u>Amount of deposit remaining with regulated entity after second refund</u>		<u>\$1,750.00</u>
<u>Continue with this process each year, until ten years has passed or deposit is completely refunded, whichever comes first</u>		

14:3-8.12 Smart growth infrastructure incentive program (SGIIP)

(a) This section sets forth the process by which the Board may authorize coverage of certain infrastructure investments under a smart growth infrastructure investment program (SGIIP). Under a SGIIP, the costs of infrastructure shall be governed by the same rules that apply to extensions serving designated growth areas at N.J.A.C. 14:3-8.7, except that the following shall apply:

1. The regulated entity may include the cost of necessary relocations and expansions of infrastructure, which is necessary to serve new customers, in the costs covered by the SGIIP; and
2. If the suggested formula is used, the regulated entity shall apply the expedited refund formula described at (c) below to the costs of an extension, as defined at N.J.A.C. 14:3-8.2, or a relocation or expansion of infrastructure, that meets the requirements at (c) below.

(b) A SGIIP area is any area in a municipality that is located in planning area 1 for which the municipality has obtained appropriate formal sanction from the Office of State Planning.

(c) In a SGIIP, an extension serving development in the SGIIP area shall be covered in the same manner as an extension serving a designated growth area under N.J.A.C. 14:3-8.1 through 14:3-8.11, except that the following differences shall apply:

1. If the suggested formula is applied, the rate at which deposits are refunded to the applicant shall be 20 times annual revenue, rather than 10 times; and
2. In determining the amount of a deposit under N.J.A.C. 14:3-8.11(b) for a single residential customer, the calculation at N.J.A.C. 14:3-8.11(b)2 shall multiply annual revenue by 20 times rather than by 10 times; and
3. Any costs that a regulated entity charges to an applicant for the relocation or expansion of infrastructure to serve a development for which the regulated entity is also providing an extension shall be considered part of the deposit. The regulated entity shall refund such costs at a rate of 20 times annual revenue as described in the suggested formulae at N.J.A.C. 14:3-8.10 and 14:3-8.11.

14:3-8.13 Enforcement

Noncompliance with this subchapter shall subject the violator to penalties and other enforcement action in accordance with applicable law.

SUBCHAPTER 10 Targeted revitalization infrastructure program (TRIP)

14:3-10.1 Purpose and scope, general provisions

(a) This subchapter establishes a Targeted Revitalization Incentive Program, or TRIP, which is a pilot program intended to remove infrastructure-related barriers to development in certain areas designated for growth. Under a TRIP, the Board may, on a pilot basis, authorize a regulated entity to install certain infrastructure in a target area

in order to build the necessary capacity to serve planned and prospective development that is described in a municipal master plan, and is approved by the State Planning Commission in accordance with this section.

(b) The purpose of a TRIP is to remove barriers to development and redevelopment in targeted areas when that development is consistent with the State Development and Redevelopment Plan, and with local plans and zoning. By ensuring that infrastructure for development in targeted smart growth areas is in place, on time, at no cost to developers, TRIP will eliminate delays and expense that may otherwise prevent beneficial smart growth development.

(c) This subchapter does not apply to cable television operators.

(d) To be eligible for coverage under a TRIP, infrastructure shall meet either of the criteria at 1 or 2 below, and in addition shall meet the requirements at N.J.A.C. 14:3-10.2 below:

1. The infrastructure is constructed entirely within a TRIP area and has a service capacity no greater than is needed to serve the TRIP area; or
2. The extension is designed, constructed and used solely to provide service to customers located in a TRIP area, and meets one of the following criteria:
 - i. The infrastructure has a service capacity no greater than is needed to serve the TRIP area; or
 - ii. The infrastructure has a service capacity capable of serving both the TRIP area and also other areas. In such a case the TRIP pilot shall cover only the portion of the infrastructure that is necessary for and will be used to serve the TRIP area. For example, a regulated entity may construct infrastructure in a TRIP area, which will serve the TRIP area, but which has additional capacity intended to serve a nearby designated growth area. In such a case, the TRIP would cover only that portion of the infrastructure that is necessary to serve the TRIP area. The allowable cost under the TRIP pilot would be pro-rated based on the amount of capacity intended to serve the TRIP areas vs. other areas. The infrastructure not covered by the TRIP would be governed by the applicable provisions covering extensions at N.J.A.C. 14:3-8.

(e) The Board shall require frequent and detailed monitoring and reporting of construction and expenditures during all phases of the TRIP, in order to ensure prudent investment and compliance with this chapter.

(f) All petitions to the Board regarding TRIP activities shall be jointly submitted by the regulated entity and the municipality.

14:3-10.2 Board approval of a TRIP

(a) This section sets forth the process by which the Board may authorize, on a pilot basis, coverage of certain infrastructure costs under a Targeted Revitalization Incentive Program (TRIP). Under a TRIP, the Board may authorize a regulated entity to recover

costs of infrastructure installed in a TRIP area through a TRIP charge approved under this subchapter.

(b) To obtain Board approval of a TRIP, a regulated entity and a municipality shall jointly apply to the Board and shall present the following information in a format provided by the Board:

1. Evidence that the municipality has obtained formal sanction from the Office of State Planning that its municipal master plan, zoning and ordinances are consistent with the State Plan, and a description of the planning areas in the municipality. TRIP is primarily aimed at planning area 1. However, the Board may consider a petition for approval of a TRIP covering infrastructure that will serve development in planning area 2 or a designated center, at the request of the Office of State Planning;
2. The current municipal master plan, zoning and relevant ordinances, and any relevant development or redevelopment plans, that describe exactly what new development the municipality is planning for in terms of new residential units or new square feet of commercial or industrial space;
3. A utility infrastructure plan, which may cover a period of time up to 5 years, describing all infrastructure the utility applicant estimates will be needed, including cost estimates;
4. A one year work plan for the first year of the TRIP, which provides specificity and detail regarding the work the regulated entity intends to complete in the first year of the TRIP, including maps detailing where the work is to be done, and a breakdown of estimated costs;
5. A demonstration of how the work proposed in the utility infrastructure plan in 3 above is necessary to provide service to the development anticipated in 2 above; and
6. Any other information necessary to evaluate compliance with this subchapter.

(c) To be eligible for coverage under a TRIP, an infrastructure investment must meet all of the following criteria:

1. The infrastructure is necessary to serve new development and/or new customers in the TRIP area;
2. The infrastructure will expand capacity and service to increase the potential number of customers served, or to increase the density of land use, as measured by the number of residential units, and/or the number of square feet of industrial or commercial space; and
3. The investment shall reflect reasonable and prudent costs.

(d) A regulated entity shall not recover the following costs through a TRIP:

1. Any construction, installation, replacement or rehabilitation of infrastructure that is necessary in order to provide safe, adequate and proper service to existing customers;
2. Any investment that does not reflect reasonable and prudent costs;
3. Replacement or rehabilitation of infrastructure that is fully depreciated and is near the end of its useful life;

17 December 2003

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4. Promotional expenses;
5. Costs incurred in order to comply with regulatory requirements, for example, legal fees, or costs for preparation of petitions and filings; or
6. Removal of existing depreciated infrastructure.

(e) The Board shall approve a TRIP on a year-by-year basis. The Board's initial approval of the TRIP shall authorize the regulated entity to implement the construction detailed in the one-year work plan submitted under (b) above. Each year, the Board shall review the construction proposed for the following year and shall determine whether to approve it.

(f) Because the purpose of a TRIP is to provide data and case studies to guide the Board in future smart growth policy making, the Board may deny a petition for approval of a TRIP if the Board determines that it has sufficient data, that the TRIP is not likely to provide the information the Board needs, or that previously approved TRIP pilots are not successfully meeting their intended purpose.

(g) Once the Board has approved a TRIP pilot, the regulated entity shall begin infrastructure investments in accordance with the activities in the first one-year work plan, as approved by the Board under N.J.A.C. 14:3-10.2(e). If a developer requests extension of a regulated service to a new development in the TRIP area during the time frame covered by the TRIP pilot, the regulated entity shall build the necessary infrastructure and shall not charge the applicant or require a deposit, provided that:

1. The development to be served is consistent with the municipal plans, zoning and ordinance submitted to the Board as part of the TRIP application; and
2. The new infrastructure is consistent in timing and content with the one-year work plan for that year, which the Board approved under N.J.A.C. 14:3-10.2(e). If the infrastructure is year, but is included in the overall utility infrastructure plan described in N.J.A.C. 14:3-10.2(b), but was not submitted as part of the one-year work plan, the regulated entity shall build the necessary infrastructure without charge to the applicant and shall not require a deposit. The regulated entity shall include this cost as an additional cost in the annual TRIP adjustment petition, described in N.J.A.C. 14:2-10.3 below. The regulated entity shall maintain detailed records of expenditures on infrastructure constructed in the TRIP area.

14:3-10.3 Annual TRIP adjustment petition

(a) After eligible investments have begun, the regulated entity shall submit an annual TRIP adjustment petition to the Board in a format provided by the Board and shall include the following types of information:

1. Detailed descriptions of all eligible investments and the development, existing and prospective, served by infrastructure constructed under the TRIP;
2. The amount of new utility service capacity provided by the investments;
3. A one-year work plan for all infrastructure construction planned for the forthcoming year under the TRIP, and the estimated cost of this infrastructure, consistent with N.J.A.C. 14:3-10.2(b)4;
4. Any changes in zoning laws, development or redevelopment plans, or other requirements relevant to development in the TRIP area, that have occurred since the TRIP was initially approved;

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5. An accounting of the type and size of new development that is being served (housing, commercial, industrial, number of units, jobs, office space) in the TRIP area;
 6. An update of the utility infrastructure plan submitted under N.J.A.C. 14:3-10.2(b), showing any changes necessitated by changes in development patterns, municipal plans or zoning, or any other causes. The updated utility infrastructure plan shall be consistent with all local plans and ordinances, with the State Plan, and with N.J.A.C. 14:3-10.1 through 10.3; and
 7. The proposed TRIP charge, determined in accordance with this section, and detailed information demonstrating that the proposed TRIP charge meets the requirements at N.J.A.C. 14:3-10.4.
- (b) The Board shall review each annual TRIP adjustment petition, and shall determine:
1. Whether the completed investments meet the requirements in this subchapter;
 2. Whether the regulated entity's proposed TRIP charge meets the requirements at N.J.A.C. 14:3-10.4;
 3. Whether the updated utility infrastructure plan remains consistent with all local plans and ordinances, with the State Plan, and with N.J.A.C. 14:3-10.1 through 10.3; and
 4. Whether to approve an additional year of the TRIP.
- (c) In determining whether to approve an additional year of the TRIP, the Board shall consider, at a minimum, the following:
1. Whether the regulated entity completed previously authorized TRIP investments in accordance with this subchapter, and if not, why not;
 2. Whether, in light of local and regional economic and development trends, the planned and prospective development called for in the municipal plans continues to be prudent and likely, and therefore whether the regulated entity's planned infrastructure investments continue to be prudent;
 3. Whether the planned and prospective development continues to be consistent with the State Development and Redevelopment Plan and all applicable local plans and laws.
- (d) The Board may condition participation in the TRIP for a subsequent year on modifications to the updated utility infrastructure plan and the proposed work plan for the upcoming year, to ensure consistency with this subchapter.

14:3-10.4 Termination of a TRIP

- (a) The regulated entity shall stop assessing the TRIP charge at the earlier of the following:
1. When the infrastructure covered by the TRIP charge is fully depreciated; or
 2. At the conclusion of the next rate case for the regulated entity.
- (b) If at any time the Board determines that the municipal master plan or zoning and ordinances are no longer consistent with the State Plan or principles of smart growth, or if the Office of State Planning rescinds its formal certification of State Plan consistency,

Board approval of the TRIP will be void and all activities under the TRIP shall stop within 3 months.

(c) If the Board finds at any time that a regulated entity is not in compliance with the TRIP as approved, or if development patterns, economic trends, or other trends relevant to the prudence of the planned and prospective development being served by infrastructure constructed under the TRIP, the Board may cancel the TRIP approval upon three months notice to the regulated entity.

(d) If the Board has not adopted a permanent TRIP to replace the pilot TRIP within five years after initial approval of a regulated entity's TRIP pilot, the regulated entity shall stop initiating infrastructure investments under the TRIP.

14:3-10.5 Calculating the TRIP charge

(a) When a regulated entity has submitted a petition for approval of a TRIP charge in accordance with N.J.A.C. 14:3-10.3, the Board shall determine the amount of the TRIP charge in accordance with this section.

(b) The Board shall set the amount of a TRIP charge at a level that will provide the regulated entity with the following:

1. A return on eligible TRIP investments, offset by accumulated depreciation and accumulated deferred income taxes, and adjusted for taxes. The return shall be set at the regulated entity's current cost of debt, adjusted for taxes. The current cost of debt shall be determined by the Board based on economic conditions prevailing during the Board's review of the petition for approval of the TRIP charge; and
2. Recovery of depreciation expense on the eligible investments, calculated using the regulated entity's current overall composite depreciation rate. The current overall composite depreciation rate shall be determined by the Board based on economic conditions prevailing during the Board's review of the petition for approval of the TRIP charge.

(c) The TRIP charge shall cover only investments that meet all of the following criteria:

1. The investments meet the requirements for eligible investments at N.J.A.C. 14:3-10.2;
2. The investments reflect actual expenditures made by the regulated entity prior to the submittal of the petition for approval of the TRIP charge; and
3. The investments are consistent with the utility infrastructure plan and approved one year work plan provided under N.J.A.C. 14:3-10.2(e)1.

(d) The TRIP charge shall be subject to the following limits:

1. The TRIP charge shall be calculated and assessed on a per unit of service basis. The TRIP charge per unit of service shall be the same for all applicable customers while the TRIP charge is in effect. Applicable customers shall be those customers from which a regulated entity is authorized to assess the Societal Benefits Charge (SBC);

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2. The TRIP charge shall be used only to recover prudently incurred costs of eligible investments, as defined at N.J.A.C. 14:3-10.1;
3. The TRIP charge shall not allow a regulated entity to earn in excess of its allowed return on common equity, as determined by the Board in the most recent base rate case for that regulated entity. Amounts not recoverable under this paragraph shall not be deferred;
4. The TRIP charge shall not be set at a level that results in a charge to residential customers that is greater than 1% of the average bill of a typical residential customer for that regulated entity; and
5. Any other limits or conditions necessary to ensure that the TRIP charge complies with (b) above.

[SUBCHAPTERS 10 THROUGH] SUBCHAPTER 11. (RESERVED)

CHAPTER 5 ELECTRIC SERVICE

SUBCHAPTER 4. [REGULATION FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS] EXTENSION OF ELECTRIC SERVICE

14:5-4.1 [Applicability] Extensions

[(a) Extension of electric distribution lines necessary to furnish an electric system to new residential subdivisions having three or more building lots, or to new multiple-occupancy buildings, shall be made underground.

(b) Such extensions of service shall be made by the utility in accordance with the provisions in this subchapter.]

All extensions of electric service, including service connections, shall be governed by the provisions for extensions set forth at N.J.A.C. 14:3-8.

~~[14:5-4.3 Rights-of-way and easements~~

~~(a) Within the applicant's subdivision the utility shall construct, own, operate and maintain underground distribution lines only along public streets, roads and highways which the utility has the legal right to occupy, and on public lands and private property across which rights-of-way and easements satisfactory to the utility both as to location and legal sufficiency are provided without cost to or condemnation by the utility.~~

~~(b) Rights-of-way and easements suitable to the utility must be furnished by the applicant in sufficient time to meet service requirements and at no cost to the utility. The rights-of-way or easements so granted must be cleared of trees, tree stumps and other obstructions above or below grade at no charge to the utility to a width sufficient to permit the use of machinery and equipment, and must be graded to within six inches of final grade by the applicant before the utility will commence construction. Such clearance and grading must be maintained by the applicant during construction by the~~

utility.

14:5-4.4 Installation of underground distribution system within subdivision

~~(a) Upon receipt of a proper application the utility shall, after conditions in N.J.A.C. 14:5-4.3 have been met and after coordination with other utilities, install along new streets and along existing streets not already served by overhead facilities, using suitable materials, an underground electric distribution system reasonably equivalent to a comparable overhead system which will assure that the applicant will receive safe, adequate and proper electric service.~~

~~1. "Suitable materials" shall be construed to mean those components of a direct buried residential-type underground distribution system, including but not limited to transformers, which shall be pad mounted unless otherwise directed by the Board, cables, conduits, street lighting poles and fixtures, switch gear and enclosures, which the industry has adopted as standard consistent with the "state of the art" as it applies to the development of such components and also consistent with the service requirements of this rule. Such standards shall be understood to be reasonable standards designed to implement this rule with a minimum increase in the difference in cost between overhead and underground distribution systems.~~

~~2. At the request of the applicant, the utility may provide components which exceed such standards, provided that applicant shall bear the full cost of the excess facilities requested.~~

~~3. No utility will be obligated to furnish electric service to any building in a subdivision unless and until an application has been made for the distribution system in the subdivision in accordance with this subsection and a deposit has been made in accordance with N.J.A.C. 14:5-4.6, unless otherwise ordered by the Board.~~

~~(b) The applicant shall supply to the utility the preliminary or tentative subdivision map which has been submitted to and approved by the appropriate authorities, showing the subdivision of all the applicant's property, together with the anticipated electric load requirements for each living unity, to facilitate planning for the ultimate supply in the form of branch circuit, main feeder and/or substation facilities required.~~

~~(c) The applicant shall also supply the final subdivision map of the section of the subdivision which has received the final approval of the appropriate authorities and which the applicant proposes to develop in the immediate future. This submission shall also detail the planned electric load requirements as described in (b) above.~~

~~(d) The applicant, in addition, shall supply an estimate of the date electric service will initially be required and the time schedule for the full development of the subject section.~~

~~(e) Semiannually, each electric utility may submit a proposed tariff, modifying existing undergrounding charges. These proposed tariffs shall be supported by unit costs of construction in a form as required for approval by the Board.~~

~~(f) Such amounts as the public utility receives pursuant to its tariff, in accordance with~~

~~this subchapter and not subject to further refund, shall be credited to the appropriate utility plant account or accounts.~~

~~(h) The total front footage shall be determined by measuring the total street footage of all property within the subdivision, excepting those portions of existing streets along which overhead facilities are already installed. Buildings in the subdivision facing an existing street on which overhead facilities are presently installed may be served overhead.~~

~~(i) The service connection to each building with be at the nearest corner of the building to the point at which the service enters the property to be service. If such service length on property served is more than 50 feet, then the applicant shall pay the utility the amount per foot listed in the utility's approved tariff for the length in excess of 50 feet.~~

~~(j) For multiple occupancy buildings, duplex family buildings and mobile homes, the underground distribution system within the subdivision shall be constructed by the utility in the most economical manner, as determined by the utility, and the applicant shall pay the utility the differential cost according to the component unit charge as listed in the utility's approved tariff. Any such buildings or mobile homes in the subdivision which abut an existing street on which overhead facilities are presently installed may be served overhead from the existing street. Should such buildings or mobile homes be served overhead, neither the number nor the frontage of such lots shall be included in the calculation to determine the applicant's contribution.~~

~~(k) The charges determined in accordance with this subchapter may not be waived or refunded unless such waiver or refund is specifically approved by the Board.~~

~~(l) Extensions of high-capacity main line distributing facilities, not exceeding 4MVA, solely within and for the applicant's subdivision, shall be made underground. The applicant shall pay the utility the differential cost for such extensions as determined from the component unit charge as listed in the utility's approved tariff:~~

~~— 1. Extensions of high-capacity main line distribution facilities, exceeding 4MVA, solely within the applicant's subdivision may be made overhead, unless otherwise ordered by the Board.~~

~~(m) Extensions of high-capacity main line distribution facilities, not exceeding 4MVA, solely within the applicant's subdivision and also necessary to serve adjacent residential, commercial, or industrial loads shall be made underground. The differential cost for such extensions shall be prorated in such a manner that the applicant shall pay the utility only for the capacity necessary to serve his subdivision. The utility may require a deposit and charge the balance differential cost to the other residential, commercial or industrial applicants, when service is requested for such loads, on a prorated basis.~~

~~— 1. Extensions of high-capacity main line distribution facilities exceeding 4MVA, solely within the applicant's subdivision and also necessary to serve adjacent residential, commercial or industrial loads, may be made overhead, unless otherwise~~

~~ordered by the Board.~~

~~(n) Extensions of high-capacity main line distribution facilities, not exceeding 4MVA, to reach the applicant's subdivision, through another residential subdivision where the provisions of this subchapter are applicable, shall be made underground. The applicant shall pay the utility a prorated differential cost for such extensions only for that capacity necessary to serve his subdivision, in addition to the charges required pursuant to (f) above. The utility may require a deposit and charge the balance of the differential cost to the property owner or owners of the residential subdivision through which the extension is made, when such owner or owners make an application for electric service, on a prorated basis.~~

~~—1. Extensions of high-capacity main line distribution facilities exceeding 4MVA to reach the applicant's subdivision, through another residential subdivision where the provisions of this Subchapter are applicable, may be made overhead, unless otherwise ordered by the Board.~~

~~14:5-4.5 Connection to supply systems~~

~~The utility shall provide a connection, using the normal method of construction, from the boundary line of the applicant's subdivision to the utility's existing supply facilities.~~

~~14:5-4.6 Advances by applicant~~

~~(a) Prior to the start of construction on a section of the subdivision, the utility shall require from the applicant a deposit equivalent to the estimated amount of charges payable to the utility in accordance with the tariff filed by the utility pursuant to N.J.A.C. 14:5-4.4(f) for the total number of building lots shown on the subdivision map supplied to the utility by the applicant under the provisions of N.J.A.C. 14:5-4.4(c).~~

~~(b) Deposits will not carry interest.~~

~~(c) If the amount of the deposit is in excess of the charges payable to the utility in accordance with N.J.A.C. 14:5-4.4(f), then the excess amount shall be returned upon completion of the installation of the distribution construction facilities.~~

~~(d) Any portion of a deposit remaining unrefunded ten years from the date the utility is first ready to render service from the extension will be retained by the utility and credited to an appropriate account.~~

~~(e) When an applicant requests the installation of underground facilities in an area for which there is no planned immediate construction of dwelling units, the utility may require a deposit from the applicant in addition to a deposit required pursuant to (a) above. Such a deposit shall not be more than the estimated cost of providing equivalent overhead extension and shall be collected and refunded in accordance with N.J.A.C. 14:3-8.1.]~~

~~[14:5-4.7 Cooperation by applicant~~

~~(a) The charges specified in this subchapter are based on the premise that each applicant shall agree to cooperate with the utility in accordance with N.J.A.C. 14:5-4.3 in an effort to keep the cost of construction and installation of the underground electric distribution system as low as possible. This includes the scheduling of construction to preclude the necessity for trenching in frozen soils or in land fill operations before soils have become stabilized.~~

~~(b) Should unusual circumstances arise which unreasonably would delay underground service, temporary facilities may be installed in whatever manner is most practical under the circumstances, provided, however, that such temporary facilities shall be replaced as soon as practical with a permanent installation in accordance with the provisions of this subchapter.~~

~~(c) Requests for adjustment of charges, specified in the tariff of any utility filed pursuant to N.J.A.C. 14:5-4.4(e), to cover excess cost, if any, due to temporary installation, may be referred to the Board in accordance with N.J.A.C. 14:5-4.11.]~~

~~14:5-4.8 Construction~~

~~(a) Where practical, as determined by the affected utilities, electric cables, communication cables and cable television cables shall be installed in the same trench, care being taken to conform to any applicable codes and regulations.~~

~~(b) Where joint use of a trench is practical, a utility will not be obliged to commence work on an underground system unless and until the applicant has made all necessary arrangements with the communication utility and cable television company to commence work on their underground system.~~

~~(c) Pavement cutting and restoration, rock removal, blasting and difficult digging conditions requiring equipment and methods not generally used by the utility's forces shall be at actual low bid differential cost on a job-by-job basis, with the applicant having the option to have the work done by himself or his agent, if qualified to do this type of work. This provision shall not apply where the utilities have entered into contractual agreements with agents to perform the above work. However, such agreements shall not be effective unless and until filed with and accepted by the Board.~~

~~(d) In subdivisions where lot sizes, configurations or requirements are such that, in the utility's judgment, primary conductors must be extended into the lots in the subdivision to adequately serve the same, the applicant shall pay the utility the cost of such extensions determined in accordance with the utility's approved tariff.~~

~~(e) In each subdivision if the average transformer capacity per dwelling unit is in excess of 8.5 KVA, the utility may make an additional charge to the applicant per dwelling unit equal to the average differential cost of installing such transformer capacity of 8.5 KVA per dwelling unit.]~~

14:5-4.9 Street lighting

~~(a) All subdivisions to be supplied from underground electric facilities shall have incorporated in their design the requirements for street lighting in accordance with the standards in general use in the municipality.~~

~~(b) Such street lighting shall also be served underground.~~

~~(c) Poles and fixtures shall be selected from the types and sizes adopted by the utility as standard.~~

14:5-4.10 Records

~~(a) Each electric utility shall maintain on a calendar year basis for periodic review by, or upon request, submission to the Board the following records:~~

~~—1. The amount of trench which it has shared with communication cables and cable television cables. The record shall also show the contribution per foot by it and by the collaborating telephone companies and cable television companies for joint use of trench.~~

~~—2. The number of subdivisions, the number of lots and the number of buildings of all types, including mobile home, for which service was made available under this subchapter.~~

14:5-4.11 Special conditions or exemptions

~~(a) When the application of this subchapter will result in extreme hardship or inequity, or be discriminatory to other customers, the utility or applicant may refer the matter to the Board for special exemptions or for approval of special conditions.~~

~~(b) The applicant invoking the jurisdiction of this Board, pursuant to (a) above, may be required to deposit in an escrow account as determined by the Board, prior to hearing, a deposit up to the estimated cost differential between underground and overhead service to be advanced to the utility in the event the Board determines an exemption is not warranted.~~

14:5-4.12 Prior regulations

~~Except for N.J.A.C. 14:3-8.1, 14:3-8.2 and 14:3-8.3 and except as otherwise provided herein, rules, regulations and standards heretofore promulgated with respect to the subject matter encompassed by this subchapter are hereby superseded and revoked.~~

14:5-4.12 Compliance

~~(a) This subchapter, having been enacted in the public interest, calls for cooperation by utilities, developers, builders and municipal bodies to achieve the desired underground~~

~~electric service in new residential subdivisions at the lowest reasonable cost consistent with system reliability and safety.~~

~~(b) Therefore, in accordance with N.J.S.A. 48:2-13 which grants general supervision and regulation of, and jurisdiction and control over, all public utilities to the Board, requirements in conflict with this subchapter which would prevent or interfere with electric utilities' compliance with this subchapter shall not be imposed through municipal ordinances or regulations.]~~

CHAPTER 10. TELEPHONE

SUBCHAPTER 1. SERVICE

14:10-1.1 [Service connections] (Reserved)

~~[(a) Each telephone utility shall supply, without cost to the customer, at least 150 feet, or more if no pole or structure is involved, of overhead service connection as measured from the curb line nearest to the customer's property to the nearest point of service connection at the customer's building or other structure. Where the customer desires an underground service connection, such facilities shall be provided, installed and maintained at the customer's sole cost and expense.~~

~~(b) If the length of service connection exceeds the requirements specified in (a) above, the customer may be required to pay for the cost of such excess.~~

~~(c) The provisions of this regulation do not affect "Service Connection Charges" associated with the establishment of telephone service, as provided for in the utility's filed tariff.]~~

SUBCHAPTER 3. [SUGGESTED FORMULAE FOR] EXTENSION OF TELEPHONE SERVICE

14:10-3.1 [General provisions] Extensions

~~[(a) These formulae shall not be binding on the parties but are suggested as a guide to customers and utilities. Parties are still free to exercise their rights under N.J.S.A. 48:2-27. When an applicant for an extension is dissatisfied with these suggested extension rules, he may petition the Board for a finding that the extension should be made without charge.~~

~~(b) An extension shall be construed to mean the extension of facilities located on streets, highways, and/or rights-of-way acquired by the utility for common distribution. The utility may demand that the applicant furnish a bond or other security to insure the use of the services requested, which bond or security will be returned upon the commencement of service.]~~

All extensions of telephone service, including service connections, shall be governed by the provisions for extensions set forth at N.J.A.C. 14:3-8.

~~[14:10-3.2 Construction on public highways~~

~~(a) Where an extension is necessary in order to serve an applicant for exchange telephone service within the base rate area as defined in the utility's tariff on file with the Board, no charge shall be made for such extension.~~

~~(b) Where an extension is required outside the base rate area, up to 1,200 feet of pole line will be constructed for each customer to be served. Where such an extension requires more than 1,200 feet of pole line construction for each customer to be served, the customers involved may be required to deposit the estimated cost of such excess construction and at the completion thereof the utility shall refund any excess of the estimated over the actual cost or the customers shall pay the excess of the actual cost over the estimated cost upon being so billed by the utility. Refunds on the basis of 1,200 feet per customer shall be given to customers who have made a construction deposit, if within a period of five years from the date of establishment of service the poles are used in furnishing exchange service to additional customers. Refunds shall also be made to customers, in whole or in part, if within said five-year period all or a portion of said pole line is used for carrying the utility's toll circuits.~~

~~14:10-3.3 Construction and attachments on private property~~

~~(a) If it is necessary to place poles on private property solely to serve an individual customer, the customer may be required to pay the utility the actual cost of each pole placed.~~

~~(b) Where attachment charges are made for the use of poles owned by another utility or individual and located on private property, the full attachment rental may be charged to the customer.~~

~~(c) Where a customer for such an extension desires underground installation of cable, he may be required to pay the actual cost of such underground extension. Where a customer for such an extension furnishes installed conduit, the utility will furnish wire connections through the conduit.~~

~~14:10-3.4 Guaranty in lieu of deposit~~

~~Where the cost to the utility for an extension to individual permanent residential customers exceeds the amount which the utility must install without cost to the customer, in accordance with N.J.A.C. 14:10-3.2, the utility and the customer may agree that in lieu of requesting a deposit by the customer equal to the excess cost of the extension, the customer will guarantee a monthly revenue. Such guarantee shall be not more than 1/60 of the total cost of the extension.]~~

SUBCHAPTER 4. (Reserved) [REGULATION FOR RESIDENTIAL TELEPHONE UNDERGROUND EXTENSIONS]

14:10-4.1 Applicability

~~(a) Extensions of telephone distribution lines installed after the effective date of this subchapter, and necessary to furnish permanent telephone service to new residential buildings and mobile homes within an approved subdivision having three or more building lots or to new multiple-occupancy buildings, shall be made underground, except for interconnecting points and pedestals.~~

~~(b) Such extensions of service shall be made by the utility in accordance with the provisions in this subchapter.~~

14:10-4.3 Rights-of-way and easements

~~(a) Within the applicant's subdivision, the utility shall construct, own, operate and maintain underground distribution lines only along public streets, roads and highways which the utility has the legal right to occupy, and on public lands and private property across which rights-of-way and easements satisfactory to the utility both as to location and legal sufficiency are provided without cost to or condemnation by the utility.~~

~~(b) Rights-of-way and easements suitable to the utility must be furnished by the applicant in sufficient time to permit the utility to meet service requirements and at no cost to the utility. The rights-of-way or easements so granted must be cleared of trees, tree stumps and other obstructions above or below grade at no charge to the utility to a width sufficient to permit the use of machinery and equipment, and must be graded to within six inches of final grade by the applicant before the utility will commence construction. Such clearance and grading must be maintained by the applicant during construction by the utility.~~

~~(c) The applicant shall supply to the utility the preliminary or tentative subdivision map which has been submitted to and approved by the appropriate authorities, showing the full layout of the subdivision to be developed in order to facilitate planning for the cables.~~

~~(d) The applicant shall also supply the final subdivision map of the section of the subdivision, which has received the final approval of the subject appropriate authorities and which said applicant proposes to develop in the immediate future.~~

~~(e) The applicant, in addition, shall supply an estimate of the date on which telephone service will initially be required and the time schedule for the full development of the subject section.~~

14:10-4.4 Installation of underground communication system within subdivision

~~(a) Upon receipt of a proper application the utility shall, after conditions in N.J.A.C. 14:10-4.3(b) have been met and after coordination with other utilities, install along new streets and along existing streets not already served by overhead facilities, using~~

~~suitable materials, an underground telephone communication system reasonably equivalent to a comparable overhead system which will assure that the applicant will receive safe, adequate and proper service.~~

~~(b) Semiannually, each utility may submit a proposed tariff modifying existing undergrounding charges. The proposed tariffs shall be supported by unit costs of construction in a form as required for approval by the Board.~~

~~(c) The installation of an underground telephone distribution system in a subdivision shall be made without any charge to the applicant. However, where pavement cutting and restoration, rock removal, blasting, difficult digging conditions and more than two pairs of wires per family unit are involved, the utility may charge the applicant for such work.~~

~~(d) Contributions in the form of money or its equivalent toward the construction of telephone plant shall be credited to the accounts charged with the cost of such construction.~~

14:10-4.6 Advances by applicant

~~(a) Prior to the start of construction on a section of the subdivision, the utility may require from the applicant a deposit equivalent to the estimated amount of the charges payable to the utility in accordance with the tariff filed by the utility pursuant to N.J.A.C. 14:10-4.4 for the installation of the communication facilities shown on the subdivision map supplied to the utility by the applicant under the provisions of N.J.A.C. 14:10-3(d).~~

~~(b) Deposits will not carry interest.~~

~~(c) If the amount of the deposit is in excess of the charges under this subchapter as determined from the utility's approved tariff, then the excess amount shall be returned upon completion of the installation of the distribution construction facilities.~~

~~(d) Any portion of a deposit remaining unrefunded ten years from the date the utility is first ready to render service from the extension will be retained by the utility and credited to an appropriate account.~~

~~(e) When an applicant requests the installation of underground facilities in an area for which there is no planned immediate construction of dwelling units, the utility may require an additional deposit from the applicant. Such a deposit shall not be more than the estimated cost of providing equivalent overhead extension and shall be collected and refunded in accordance with N.J.A.C. 14:3-8.1 et seq.~~

14:10-4.8 Construction

~~(a) Where practicable as determined by the affected utilities, electric cables and communication cables shall be installed in the same trench, care being taken to~~

~~conform to any applicable codes and regulations.~~

~~(b) Where joint use of a trench is practical, a utility will not be obliged to commence work on an underground system unless and until the applicant has satisfied all conditions precedent to the obligation of the electric utility to commence work on its underground system.~~

~~(c) Pavement cutting and restoration, rock removal, blasting and difficult digging conditions requiring equipment and methods not generally used by the utility's forces shall be at actual low bid differential cost on a job-by-job basis, with the applicant having the option to have the work done by himself or his agent, if qualified to do this type of work. This provision shall not apply where the utilities have entered into contractual agreements with agents to perform the above work. However, such agreements shall not be effective unless and until filed with and accepted by the Board.~~

14:10-4.9 Records

~~(a) Each telephone utility shall maintain on a calendar year basis for periodic review by, or upon request, submission to the Board the following records:~~

- ~~1. The amount of trench which it has shared with electric cables. The record shall also show the contributions per foot by it and by the collaborating electric companies for joint use of trench.~~
- ~~2. The number of subdivisions, the number of lots and the number of buildings of all types, including mobile homes, for which service was made available under this subchapter.~~

14:10-4.11 Prior regulations

~~Except for N.J.A.C. 14:3-8.1, 14:3-8.2 and 14:3-8.3 as otherwise provided herein, rules, regulations and standards heretofore promulgated with respect to the subject matter encompassed by this subchapter are hereby superseded and revoked.~~

14:10-4.12 Compliance

~~(a) This subchapter, having been enacted in the public interest, calls for cooperation by utilities, developers, builders and municipal bodies to achieve the desired underground telephone service in new residential subdivisions at the lowest reasonable cost consistent with system reliability and safety.~~

~~(b) Therefore, in accordance with N.J.S.A. 48:2-13, which grants general supervision and regulation of, and jurisdiction and control over, all public utilities to the Board, requirements in conflict with this subchapter which would prevent or interfere with telephone utilities' compliance with this subchapter shall not be imposed through municipal ordinances or regulations].~~

CHAPTER 18 REGULATIONS OF CABLE TELEVISION

SUBCHAPTER 3 CUSTOMER RIGHTS

14:18-3.2 Requests for service

(a) - (f) No change.

(g) In an area not designated for growth, as defined at N.J.A.C. 14:3-8.2, any Certificate of Approval or Renewal Certificate of Approval for which an ordinance was issued after {the effective date of these rules} shall include provisions ensuring compliance with N.J.A.C. 14:3-8.

(h) In a designated growth area, as defined at N.J.A.C. 14:3-8.2, any Certificate of Approval or Renewal Certificate of Approval for which an ordinance was issued after {the effective date of these rules} shall specify that a cable television company shall provide service to the entirety of the municipality at no cost to customers beyond standard and non-standard installation rates.

SUBCHAPTER 6. RECORDS

14:18-6.2 Plant and operating records

(a) – (b) No change.

(c) Each cable television operator shall comply with the requirements for record keeping and reporting set forth at N.J.A.C. 14:3-6.2.

SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT

14:18-11.2 Application for municipal consent to operate a cable television system

(a) Every application for a consent shall be submitted on a standard form supplied by the Office, which form shall include, but not be limited to, the following information:

1. – 5. (No change.)

6. Rates for television reception service:

i. Installation of service , including a statement that the applicant shall comply with N.J.A.C. 14:3-8 regarding extension of service;

ii.– iii. (No change.)

7. - 8. (No change.)